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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Tokelau

Working paper prepared by the Secretariat

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I. General

1. Tokelau,[1] a Non-Self-Governing Territory administered by New Zealand, consists of three small atolls in the South Pacific (Fakaofo, Nukunonu and Atafu), with a total area of approximately 12.2 square kilometres. Fakaofo is the southernmost atoll; Nukunonu is nearly 50 kilometres away and Atafu nearly 100 kilometres from Nukunonu. Each atoll comprises strips of land no more than 200 metres wide and never more than 5 metres above sea level. Samoa, 480 kilometres to the south, is the nearest sizeable neighbour.

2. Tokelauans are Polynesians with linguistic, family and cultural links with Samoa. The last five-yearly census, conducted on 11 October 2001, recorded a population of 1,518, a slight increase over the 1996 figure of 1,507 people. This figure includes all those present on census night plus those who usually reside in Tokelau but were overseas temporarily in government employment or for educational and medical reasons — a frequent occurrence in this Territory. By atoll, the population was recorded as follows: Atafu, 608; Fakaofo, 501; Nukunonu, 409. The constraints of atoll life and limited opportunities have led some 6,000 Tokelauans to settle abroad, mainly in New Zealand and Samoa.

3. There has never been a New Zealand representative resident in the Territory. The New Zealand official who deals with Tokelau is the Administrator, appointed by the Minister for Foreign Affairs and Trade. In March 2003, a new Administrator, Neil Walter, was appointed. In the past, there was also a Public Services Commissioner for Tokelau, a delegate of the State Services Commissioner. The last Public Services Commissioner, Aleki Silao, a New Zealand-based Tokelauan, remained in his post until 30 June 2001, when responsibility for public services was transferred to the Territory (see para. 32 below).

4. In August 2002, a Mission of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples visited Tokelau and New Zealand at the invitation of the Government of New Zealand and the people of Tokelau. It was the first mission of this kind since 1994. The report of the Mission (A/AC.109/2002/31), which includes information on the Territory's current situation, an account of meetings, and conclusions and recommendations, was issued in September 2002. In October 2004, the Chairperson of the Special Committee on Decolonization, Mr. Robert Aisi, attended the special constitutional workshop held at Atafu, pursuant to the invitation extended by the Ulu of Tokelau earlier in the year.

5. In May 2004, the Special Committee held the Pacific Regional Seminar in Papua New Guinea, at which Tokelau was used as a case study illustrating how small Territories might approach the challenges of decolonization. The following month, the Ulu of Tokelau and the Administrator participated in the session of the Special Committee at United Nations Headquarters in New York.

II. Constitutional and political developments

6. As reported in previous working papers on the question of Tokelau (see A/AC.109/2001/5, A/AC.109/2002/6, A/AC.109/2003/10 and A/AC.109/2004/8), the current process of constitutional development stems from the 1998 decision by the General Fono (the national representative body) to endorse a comprehensive

report entitled "Modern House of Tokelau", which addressed the core issue for Tokelau in creating a constitutional framework: how to construct a self-governing nation based on the atoll or village structure.

7. Regarding the legislative structure, in accordance with recommendations made in the 1998 Modern House report, a new electoral system was instituted for the General Fono. In the past, the 27-seat General Fono was made up of members chosen by each village's Taupulega (Council of Elders or Village Council) to serve three-year terms; only the Faipule (the representative of each village) and the Pulenuku (the mayor of each village) were elected. In January 1999, elections for a reformed General Fono, made up of six members from each village (18 altogether), were held on the basis of universal suffrage. Each village first elected four officials: Faipule, Pulenuku, Deputy Faipule and Deputy Pulenuku. Next, it elected two delegates nominated by designated groups in the village: women and the aumaga (the workforce of able-bodied men). The newly elected General Fono reflected a generational change in membership. Delegates were younger and had received more formal education than before. In addition, whereas in the past, membership in the General Fono was rotational in nature, several of the new delegates had served previously.

8. In November 2001, it was decided that representation within the Fono would be changed based on the results of the 2001 census. This meant that for the first time in the history of the General Fono, the three atolls would not be represented by the same number of delegates, but would have legislative seats proportional to the size of their population. Thus, replacing the former structure of 18 members (6 per atoll), the new General Fono has 21 members, giving Atafu 8 delegates, Fakaofo 7 and Nukunonu 6. The triennial elections for Faipule and other General Fono delegates were held from 16 to 22 January 2002. Each of the three incumbent Faipule was re-elected. Among the elected delegates, 11 of them (more than half the composition of the General Fono) have not held office before. The position of Ulu-o-Tokelau (titular head of the Territory) rotates annually among the three Faipule. In January 2003, Fakaofo's Faipule, Kolouei O'Brien, was installed as Ulu for 2003. In January 2004, Atafu's Faipule, Patuki Isaako, took over the post. Elections for the positions of Faipule and Pulenuku of each village were held in January 2005. Pio Tuia was re-elected Faipule of Nukunonu and will be Ulu-o-Tokelau for 2005. Kolouei O'Brien was re-elected Faipule of Fakaofo and Kuresa Nasau was once again elected Faipule of Atafu.

9. The issue of representation within the General Fono was again reviewed at the October 2004 meeting of the Special Constitutional Committee at the October 2004 General Fono. At the same meeting in October, decisions were taken on the method of appointment of the Chairperson of the General Fono and on the role and responsibilities of the six-person Council for Ongoing Government (see para. 17 below).

10. The October 2004 General Fono took a number of decisions on Tokelau's draft constitution and legislative framework. Agreement was also reached on law-making procedures, the role of the constitutional advisory body, Kau Hauatea, the judicial system and the newly established International Trust Fund.

11. It will be recalled that initial studies on a Tokelauan constitution had been conducted in the mid-1990s and a "first glimpse" draft paper was published in 1997, in both Tokelauan and English. In November 2003, the General Fono adopted a

paper recommended by its Special Constitutional Committee which brought together all the main elements currently expected to be in an eventual constitution. That followed an extensive process of consultation conducted by the Tokelau public service on all three atolls. The paper draws upon customary practice, the written rules of the General Fono and parts of New Zealand law. The draft constitution was given further consideration at the October 2004 meetings of the Special Constitutional Committee and the General Fono. The draft forms part of the ongoing dialogue between New Zealand and Tokelau on Tokelau's future political status.

12. An on-island review conducted by the Administrator resulted in a report adopted by the General Fono in January 2004, which contains recommendations relating to the future shape and functioning of Tokelau's public services.

13. At its meeting in June 2003, the General Fono had agreed that the three Village Councils should assume full responsibility for all the public services on their atoll and set a target date of 30 June 2004 for the achievement of that objective. The decision stemmed from the earlier agreement on an approach known as the Modern House of Tokelau whereby the traditional Council of Elders on each atoll should serve as the foundation for a future governance structure. Under that arrangement, the three Councils would delegate authority to the General Fono for those activities to be managed at the national level. The Administrator was asked to conduct a review of Tokelau's public services to ensure that the villages and nation were suitably equipped to handle their new responsibilities. A Commission of Enquiry was conducted in September/October 2003 to that end. The review team spent 10 weeks in Tokelau consulting with all interested parties. Its report, which contains a number of recommendations relating to the future shape and functioning of Tokelau's public services, was adopted by the January 2004 General Fono.

14. At the June 2004 General Fono, the Administrator formally delegated his responsibilities to the Taupulega (Village Councils) of the three villages. In turn, the three Taupulega sub-delegated to the General Fono responsibility for specified subjects that need to be handled at the national level. The reworking or devolution of the public services in line with this new political structure based on the three villages has now been completed. The main feature of this arrangement is that it puts the three villages squarely at the heart of Tokelau's system of government and reaffirms the "pule", or traditional authority, of the three Village Councils. This represents the realization of the concept known as the "Modern House of Tokelau".

15. At the June 2003 General Fono, it was agreed that the activities previously undertaken under the Modern House project aimed essentially at strengthening governance systems, boosting capability and enhancing economic development would henceforth be mainstreamed and run as part of the overall annual budget and planning process. It was also agreed that from 1 July 2003, Tokelau would be responsible for its full budget. Previously, the economic support provided by New Zealand had been divided into a budgetary support grant, on the one hand, and development assistance projects administered by New Zealand's Agency for International Development, on the other hand. Tokelau's budget for 2003/04 was adjusted accordingly. The remaining aspect of the Modern House project, known as "Friends of Tokelau" — i.e., keeping Tokelau's communities in New Zealand and other interested parties informed of developments — is now being handled by the Tokelau Liaison Office in Apia and the strengthened Tokelau Unit in Wellington. The Tokelau Unit has also been designated the official coordinating point for all

Tokelau activities undertaken by the New Zealand Government, in order to ensure policy coherence and practical coordination.

16. The status of Tokelau's institutions of government and its constitutional and legal development were discussed during the Special Committee's Mission to Tokelau and New Zealand in August 2002. In its report (A/AC.109/2002/31), the Mission summarized these discussions and made recommendations to advance the self-determination process further. During the Mission's stay in Wellington, the representatives of New Zealand noted that consultations with Tokelau on a relationship framework were expected to begin later in 2002 in order to make explicit the basis and parameters of the relationship between them. It was anticipated that these consultations would:

(a) Reconfirm Tokelau and New Zealand's ongoing commitment and responsibilities to one another;

(b) Identify the values and principles that are the foundation for New Zealand and Tokelau's relationship;

(c) Confirm the terms under which New Zealand will provide ongoing economic and administrative assistance to Tokelau;

(d) Identify the principles underpinning such issues as Tokelau's security and defence, its participation in regional and international affairs, the role of the Tokelauan community in New Zealand and the decolonization process;

(e) Institute more structured communication and liaison between Tokelau and New Zealand so that issues concerning both parties can be addressed more strategically and systematically in the future.

17. The six-person Council for Ongoing Government is in effect the executive Government during times when the General Fono is not in session. The Council consists of the three Faipules (the representative of each village) and the Pulenukus (the mayor of each village). In November 2004, at the Prime Minister's invitation, the Council visited New Zealand for high-level discussions on Tokelau's further political evolution. The Council met with the Governor-General, the Prime Minister, the Minister of Foreign Affairs and Trade and the Leader of the Opposition. The Council also held a series of meetings with the main Tokelauan communities in New Zealand. Agreement was reached on the principal elements to be included in a draft Treaty of Free Association. It was noted that, if Tokelau agreed to undertake an act of self-determination, the United Nations would be invited to provide electoral assistance.

18. The first discussions on a new relationship framework were held in Wellington in December 2002. Following further consultations, a Principles of Partnership statement was agreed upon by the June 2003 General Fono and subsequently approved by the New Zealand Government. A formal signing ceremony was held in Tokelau in November 2003, in the presence of New Zealand's Governor-General. The Partnership agreement provides the medium to long-term context in which work can be carried forward on Tokelau's constitutional and other developments. The document addresses the management of the partnership, self-determination for Tokelau, Tokelau's language and culture, New Zealand citizenship, shared values, economic and administrative assistance, coordination of services to Tokelau, defence and security, foreign affairs and the Tokelauan community in New Zealand.

At the same time, the New Zealand Government approved a support scheme for Tokelau known as the administrative assistance scheme. The essence of the scheme is that all New Zealand government agencies are now formally instructed to consider providing assistance to Tokelau within their sphere of responsibility. Arrangements have been made for the Tokelau Unit in Wellington to act as liaison and coordination point for the scheme. Activities are already under way in the areas of health, education and fisheries.

19. In November 2003, the General Fono took a formal decision, by consensus and with the support of all three Village Councils, to "endorse self-government in free association with New Zealand as the choice now to be actively explored with the New Zealand Government". That was based on a recommendation of the Special Constitutional Committee, which in turn was based on extensive consultations held in each atoll earlier in the year. The meeting of the Special Constitutional Committee was greatly assisted by funding provided by the United Nations Development Programme (UNDP) for this exercise.

20. Agreement was reached at the January 2004 General Fono on the steps to be taken to give effect to this decision. These included discussions of senior officials in Wellington in April 2004, discussions, during the Pacific Regional Seminar in May 2004, of the Special Committee on decolonization, followed by consultations in New York in June 2004 during the meetings of the Special Committee on decolonization, as well as an official visit made to Tokelau by New Zealand's Prime Minister, Helen Clark, in August 2004. During her visit, the Prime Minister welcomed Tokelau's recent decisions on its future political status and assured Tokelau of New Zealand's ongoing friendship and support as it moved towards an act of self-determination.

External relations

21. As spelled out in paragraphs 9 and 10 of the Principles of Partnership statement, Tokelau, as a Non-Self-Governing Territory, currently has insufficient international legal personality to enter into formal international legal obligations in its own right. New Zealand is responsible for entering into any such obligations on Tokelau's behalf, after consulting with Tokelau as to its wishes. Tokelau participates in regional and international organizations in its own right to the extent that those organizations provide for such participation. For example, Tokelau is a member of the Forum Fisheries Agency and the South Pacific Community and is an Associate Member of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

22. In March 2003, the first formal visit to Tokelau by a Samoan Prime Minister took place and a memorandum of understanding was signed in which they agreed on an annual programme of activities in areas such as education, shipping and economic cooperation. In December 2004, Tokelau held a first round of official talks with the Prime Minister of Samoa, as provided for in the memorandum of understanding.

23. In April 2003, the resident representative of UNDP visited Tokelau. The Director-General of the Secretariat of the Pacific Community also visited Tokelau during that time. One outcome of that visit was that a senior member of the Secretariat of the Pacific Community would act as a focal point for Tokelau programme activities, focusing on community health, youth, women, fisheries and

cultural development. In August 2004, the Acting Ulu of Tokelau attended — as part of the New Zealand delegation — the Pacific Islands Forum meeting, held in Apia. The Acting Ulu addressed the Forum as Tokelau's representative and consideration is now being given to applying for observer status at the Forum.

24. In November 2003, New Zealand and Tokelau entered into an agreement with France on the delimitation of the maritime boundaries between Wallis and Futuna and Tokelau.

III. Economic conditions

A. Economic developments

25. Traditional and communal values and practices play a key role in contributing to a state of general well-being and equity in the Territory, as evidenced by the redistribution principles of traditional wealth (the inati system) and the importance attached to upholding the concept of the family and/or the extended family. The tradition of inati requires the deposition at a central location of food and produce, which are then apportioned by the distributors on the basis of "share groups". The principle provides for a secure distribution system that caters to the needs of every member of the community, including the elderly, widows, single parents and children. Major constraints on economic growth include natural disadvantages, such as the small size of Tokelau, isolation, the geographical spread of the atolls, limited and poor natural resources and proneness to natural disasters (such as cyclones). Tokelau's economic stability has so far been made possible by the high levels of assistance provided by the administering Power.

26. Tokelau's national budget for 2003-2004 was set at NZ$ 8.6 million. The full budget is now under Tokelau's control (previously it controlled the budgetary support element but not the project assistance funds).[2] New Zealand continues to be the primary source of economic support. In June 2003, the General Fono took decisions on its budgetary allocations for the 2003/2004 financial year. New Zealand provided additional one-off grants totalling NZ$ 650,000 to improve shipping services, accelerate public building maintenance programmes and strengthen health and education services.

27. During the visit by the Prime Minister of New Zealand (see para. 20), a multi-year economic support agreement was signed between the New Zealand Agency for International Development (NZAID) and Tokelau. Additional funding was announced to improve shipping services while a study of long-term shipping options is being carried out jointly by Tokelau and New Zealand. The Prime Minister also announced a further grant of NZ$ 1 million to Tokelau's International Trust Fund. The Fund, which now stands at some NZ$ 7.5 million, was formally established at a signing ceremony between the Acting Ulu of Tokelau and New Zealand's Minister of Foreign Affairs and Trade in November 2004. Contributions will be sought shortly from regional and international bodies and donor countries.

28. While the bulk of development assistance to Tokelau has been bilateral support from New Zealand, UNDP also contributes from its office in Apia to the strengthening of the Territory's social and economic capabilities as it moves towards greater self-government and self-reliance. Some of the milestones in the UNDP

relationship with Tokelau have been the first telephone connection in the Territory in 1997, building sea walls after a cyclone and its early and ongoing support to the Modern House project. Within the Tokelau/UNDP country cooperation framework for 1998-2002,[3] UNDP provided funding of US$ 214,000 in direct support to the Modern House project, which focused on macrolevel financial management and strategic economic planning. Other projects included the US$ 148,000 job creation and sustainable livelihoods project, implemented by the International Labour Organization, and the US$ 150,000 household income and expenditure survey, which provided data on the needs of vulnerable sectors (youth, women, children, the elderly and the disabled).

29. In August 2002, when the UNDP resident representative accompanied the United Nations Visiting Mission to Tokelau, she introduced the new Tokelau/UNDP country programme for 2003-2007, which is expected to invest over US$ 0.5 million per year over the next five years. According to the representative, it will again focus on support for the Modern House project, with grant assistance in two areas: governance and sustainable development. Under governance, support will continue for capacity-building and training. Under sustainable development, UNDP will support development projects, such as microenterprise projects for women and skills training for youth; a comprehensive assessment of fishing resources to strengthen the fisheries industry; and environmental management projects, including reducing reliance on fossil fuels by building solar energy units and improving fuel storage and protection against oil spills. While Tokelau does not qualify for funding under the Global Environment Facility (GEF) owing to its non-self-governing status, UNDP is exploring ways in which Tokelau could benefit from regional GEF projects. The representative also noted the willingness of UNDP to assist the Territory should a study to review the options for its future self-determination be requested by Tokelau.

30. In November 2004, the Council for Ongoing Government appointed a Director of Economic Development and Environment. This will strengthen the governance project's economic dimension and be aimed at expanding economic and social opportunities, thereby increasing the village and national revenue base and, thus, Tokelau's self-reliance.

31. Regarding commercial fisheries, under the 1987 Treaty on Fisheries between the Governments of certain Pacific Islands and the Government of the United States of America (also known as the United States Tuna Treaty), Tokelau earns fees paid by United States vessels fishing in its exclusive economic zone. Thus, Tokelau earned US$ 506,308 in fishing fees during 2001/2002. The return in 2003/2004, however, fell sharply. In addition, Tokelau is seeking to conduct an audit of its maritime resources and to develop its own commercial fishing capacities. As part of this process, the Territory asked for assistance from the Forum Fisheries Agency and in 2002, the Territory acceded to associate membership in the Agency. Tokelau also participates actively in the work of the Western and Central Pacific Fisheries Commission.

B. Public services

32. In the 1990s, both the New Zealand and Tokelauan authorities agreed that the Tokelau Public Service produced a management structure that emphasized national

arrangements over village ones, weakening, in the process, the institution of the village. In July 1998, at the request of the territorial Government, a New Zealand-based Tokelauan was appointed Tokelau Public Service Commissioner to ensure the effective running of the existing Service and to assist Tokelau in developing and implementing a new independent public service that would fit within the Modern House project. The Government of New Zealand adopted legislation to enable responsibility for the Service to be passed to Tokelau. In February 2001, the General Fono established a three-member Tokelau Employment Commission (one member designated by each village) as the successor body, effective 1 July 2001. As a result of the 2003 Commission of Enquiry, that body has now been dissolved. In future, its duties will be discharged by Tokelau's senior public servants, acting under delegation from the village and national political authorities.

33. New Zealand and Tokelau have agreed to the appointment of a number of well-qualified and experienced advisers working alongside Tokelau's Directors in the key areas of health, education, finance and public-service management. It is envisaged that a similar mentoring arrangement will apply in the fields of economic development and environment. A special one-week training workshop for all senior Tokelau public-service managers took place in New Zealand in November 2004.

34. Work continued in Wellington on strengthening the support network available to Tokelau, including the Administrative Assistance Scheme, whereby New Zealand government agencies are directed to give Tokelau specialist advice and support in a range of public-sector areas. This assistance is coordinated through the office of the Administrator of Tokelau, known as the Tokelau Unit, in the Ministry of Foreign Affairs and Trade.

C. Transport and communications

35. Tokelau has no airstrips and until recently its main transportation option was that provided by a single vessel, the *MV Tokelau*, a mail ship with limited cargo and passenger capacity that provided service every two weeks between Tokelau and Apia, as well as inter-atoll services. The United Nations Mission that visited the Territory in August 2002 concluded that the lack of transportation options was one of the greatest drawbacks to economic development in the Territory and recommended that serious consideration be given to the establishment of a dedicated inter-atoll ferry and an airstrip on one of the atolls. In 2003/2004, additional funding was provided by New Zealand to support the more frequent use of larger vessels, under charter from the Samoa Shipping Corporation, for the Apia/Tokelau service. This funding is to be further boosted as from the 2004/2005 year. In the meantime, a formal review of Tokelau's long-term shipping needs is being carried out jointly by Tokelau and New Zealand.

36. The first use of the General Fono's legislative power was the establishment of the Telecommunications Tokelau Corporation under the Tokelau Telecommunications Rules of 1996. The NZ$ 4 million international telecommunication service was inaugurated in April 1997 and is contributing to the Territory's progress towards self-determination by facilitating Tokelau's contact with the outside world. Previously, Tokelau had to rely on short-wave links to Samoa. Of the total cost, New Zealand contributed NZ$ 1.5 million and Tokelau NZ$ 1.6 million. UNDP and the International Telecommunication Union provided the balance. In February 2002, FM

radio stations were inaugurated on each of the three atolls with funding from the New Zealand Agency for International Development. Currently, they operate independently, but there are plans to link them at least once a week for a national programme. The new radio stations are seen as an excellent means of maintaining the Territory's cultural heritage as well as a way of facilitating communication on community matters. In addition, they provide a way to increase transparency in political, social and economic developments as they broadcast meetings of the Mayor and Council of Elders on each atoll.

37. Tokelau also has a web site, www.dot.tk, which became operational on 15 January 2002 and offers both free and paid dot.tk domain names. The web site is the result of a commercial licensing agreement between the Telecommunications Tokelau Corporation and a private company which set up Taloha Inc. It is seen as having the potential to provide revenue to the Territory without any capital outlay by the Telecommunications Tokelau Corporation.[4] A comprehensive review of Tokelau's information technology systems and structures was conducted in mid-2004. The report of the review team is now being considered by the Council for Ongoing Government.

D. Power supply

38. The 2001-2002 New Zealand Agency for International Development forward aid programme allocated NZ$ 400,000 to continue the installation of diesel generation systems on all three atolls. In August 2002, it was reported that 24-hour diesel power was available on two of the three atolls and that installations on the third atoll would be completed before the end of the year. It was agreed that a further allocation of NZ$ 300,000 would be made and that the current tariffs for power consumption on each atoll would be retained and reviewed after one year, once operational and maintenance costs were known. A report covering the final phase of this project is currently under consideration by Tokelau and New Zealand, as is a proposal concerning the installation of bulk fuel tanks in Tokelau. Following discussions between the Agency and UNDP, there is also a project for a solar power (photovoltaic) component to the new system, which UNDP and UNESCO have agreed to manage with partial funding from France.

IV. Social conditions

A. Education

39. Under Tokelau's compulsory education system, primary and secondary education are available to everyone. As a member of the University of the South Pacific (USP), Tokelau also has access to the USPNet educational telecommunications system through a satellite established in Atafu. However, the low standard of the education system remains a problem, with many families migrating to New Zealand or Samoa in order for their children to receive higher-quality education. In 2002-2003, NZ$ 178,000 was allocated for scholarships and NZ$ 230,000 was allocated for new education initiatives. Meanwhile, a 2002 study on Tokelau's education system has recommended immediate technical support for Tokelau's Education Department and the development of a comprehensive strategy

to shape the future direction of schooling in the Territory. Tokelau and New Zealand have agreed to act urgently on these recommendations. Additional funding was allocated in 2003/2004 to remedy the problems and a senior education adviser took up a new position in March 2004. A new appointee to the position of USP Coordinator in Atafu is expected to take up her post in January 2005.

B. Health

40. Average life expectancy is 69 years.[5] There are three basic hospitals, one on each atoll. However, the shortage of qualified medical practitioners and general health-care workers, as well as the maintenance of installations and equipment, remain a serious problem. In addition, the need to transfer the more serious cases to Samoa or New Zealand for treatment represents a large expense in the national budget. A New Zealand-based doctor provides support to the Tokelau Health Department and coordinates the provision of locum doctors, medical referrals to New Zealand, training and equipment purchases. The 2002-2003 health allocation was NZ$ 390,000, but an August 2002 review of the health project confirmed the need for action by both parties to address numerous concerns over the provision of medical services on the atolls. The World Health Organization (WHO), of which Tokelau is an associate member, reports that changes in lifestyle and an increase in non-communicable diseases in Tokelau have resulted in the need for health education programmes focused mainly on the promotion of non-smoking, increasing physical activity and controlling the use of alcohol among young people.[6] Further data regarding the WHO Tokelau projects is to be found in the report of the Mission to Tokelau (A/AC.109/2002/31, para. 32).

41. A Health Services Adviser was appointed in late 2003, with responsibility for assisting Tokelau's Director of Health to strengthen and improve health services in Tokelau. Following discussions in the January 2004 General Fono, an action plan is being prepared to improve the standard of Tokelau's health services. An agreement on patient referrals to New Zealand was signed by the Council for Ongoing Government and the Capital and Coast District Health Board in November 2004. A pilot cervical screening programme was started in the same month and a pharmacist was appointed to help with supplies of drugs and equipment.

C. Status of women

42. Women are well integrated in Tokelauan society. They participate in the village decision-making process, through Fatupaepae (women's committees), the village Councils of Elders and their membership in the General Fono. The new electoral system for the General Fono has increased gender equity. Women elected to the General Fono no longer function as the representative of the women's committee, but are responsible for representing all the people of the village. A number of women who addressed the United Nations Visiting Mission in August 2002 mentioned that there had been considerable social progress in recent years, namely, governance projects to assist the elders in making decisions, FM radio to disseminate these decisions and greater support for women's handicraft projects and youth training centres. Nonetheless, they also called for greater support for job creation in order to reduce Tokelau's future dependency on outside aid (see A/AC.109/2002/31, para. 23). The 2002-2003 New Zealand Agency for

International Development allocation for gender and development remained at NZ$ 30,000, part of which will be used to cover the cost of a programmed national women's meeting.

V. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

43. The Special Committee considered the question of Tokelau at its 7th meeting, on 16 June 2004 (see A/AC.109/2004/SR.7). Statements were made at that meeting by the Administrator of Tokelau, the Ulu-o-Tokelau and the representatives of the Syrian Arab Republic, Bolivia, the Congo, Chile and Cuba. The representative of Papua New Guinea introduced draft resolution A/AC.109/2004/L.10 on behalf of his delegation and Fiji. The Committee adopted the draft resolution as orally revised by its sponsors, without a vote.

B. Special Political and Decolonization Committee (Fourth Committee)

44. At its 2nd meeting, on 4 October 2004, the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly heard statements by the Rapporteur and the Chairperson of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in which they referred to the year's developments regarding Tokelau (see A/C.4/59/SR.2).

45. At the same meeting (see A/C.4/59/SR.2), the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly heard a statement by the Permanent Representative of New Zealand to the United Nations (see para. 49 below). Also at the same meeting, the representatives of Cuba and Papua New Guinea made statements in which they commended the New Zealand Government for its exemplary cooperation with the Special Committee. At its 10th meeting, on 12 October 2004, the Committee adopted draft resolution V contained in the report of the Special Committee (A/59/23 (Part III), chap. XII), entitled "Question of Tokelau", without a vote.

C. Action by the General Assembly

46. At the 71st meeting of the fifty-ninth session of the General Assembly on 10 December 2004, on the recommendation of the Fourth Committee, the Assembly adopted resolution 59/133 on the question of Tokelau without a vote. On the same date, it also adopted resolution 59/136 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, paragraph 7 of which refers to Tokelau.

VI. Future status of the Territory

A. Position of the administering Power

47. Speaking before the Special Committee on Decolonization at its 7th meeting on 16 June 2004 (see A/AC.109/2004/SR.7), the Administrator noted that further significant milestones had been achieved in Tokelau's steady progression towards an act of self-determination. On the political front, Tokelau was moving to a new system of Government based on the three village councils. Its public services had been strengthened and restructured. Success in those key areas was critical for Tokelau's continued viability as a community and a prerequisite to its further political evolution. New Zealand was now providing administrative and technical support on a whole-of-Government basis. Tokelau had made good progress in its discussions with New Zealand about the decolonization option of self-government in free association. It had pushed ahead with its draft constitution, anthem and flag. It currently had firm assurances of ongoing New Zealand support, including an enhanced multi-year economic support agreement and the joint statement of the principles of partnership.

48. Speaking before the Special Political and Decolonization Committee (Fourth Committee) at its 2nd meeting, on 4 October 2004 (see A/C.4/59/SR.2), the representative of New Zealand outlined recent developments and noted that the past 12 months had seen considerable movement, both in New Zealand and in Tokelau, towards an act of self-determination. The signing of the joint statement of the principles of partnership, the official visits to Tokelau by New Zealand's Governor-General and Prime Minister, the delegation of the Administrator's powers to the Village Councils, the restructuring of the public services in Tokelau and the strengthening of New Zealand's support systems, the formal establishment of Tokelau's International Trust Fund, the visit by the Chairperson of the Special Committee in October 2004, the dialogue now joined between Tokelau and New Zealand on the decolonization option of self-government in free association with New Zealand, Tokelau's first formal appearance before the Pacific Islands Forum, the signing of a first multi-year economic support agreement — all that pointed to an exciting and challenging time for Tokelau in the coming months. The representative of New Zealand also paid tribute to UNDP, which had shown considerable sensitivity towards Tokelau's particular circumstances and needs.

B. Position of the people of Tokelau

49. At the 7th meeting of the Special Committee, on 16 June 2004, the Ulu-o-Tokelau, Isaako Patuki, noted that 2003 had been a momentous year for Tokelau (see A/AC.109/2004/SR.7). To ensure that Tokelau, New Zealand and the Committee would be ready to "cast the lure for the great fish", the next period had to be one of consolidation, he said. Rehearsing recent developments in regard to Tokelau's progression towards an act of self-determination, he noted that early and positive engagement had taken place with New Zealand on Tokelau's future political status. He noted that Tokelau currently had its own distinctive system of government based on the village councils and that the public services were being restructured and strengthened. He reported on the decisions taken by the General Fono pertaining to Tokelau's rules and draft constitution. Noting the establishment of Tokelau's

International Trust Fund, he appealed for support from the international community as Tokelau moved to take on greater responsibility for its own affairs. Special appreciation was expressed for the assistance being provided to Tokelau by UNDP. An invitation for the Special Committee to attend the workshop of the Special Constitutional Committee in October 2004 was extended.

Notes

[1] Updated information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of New Zealand on 29 November 2004, from organizations of the United Nations system and from published sources.

[2] As at 18 January 2004, NZ$ 1.00 was equivalent to US$ 0.70.

[3] UNDP programme of assistance to Samoa, Cook Islands, Niue and Tokelau, March 2001.

[4] Press release, "History in the making" (February 2002), and information transmitted by the Administrator of Tokelau.

[5] UNDP, Pacific Human Development Report, 1999.

[6] Information from WHO, 19 March 2001.

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Anguilla

Working paper prepared by the Secretariat

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I. Background information

A. Geography

1. Anguilla lies 240 kilometres east of Puerto Rico, 113 kilometres north-west of Saint Kitts and Nevis and 8 kilometres north of St. Maarten/St. Martin. The Territory has a relatively flat topography, a total area of 96 square kilometres and includes several offshore islets. The main island has a maximum length of 26 kilometres and a maximum width of 5 kilometres. The capital of Anguilla is The Valley, where 43 per cent of the population resides.

B. History

2. Originally inhabited by the Arawaks, Anguilla was first colonized by British settlers in 1650. For administrative purposes, it was associated with Saint Kitts and Nevis from 1871 to 1980. Following the dissolution of the Federation of the West Indies in 1962, Saint Kitts-Nevis-Anguilla became a State in association with the United Kingdom of Great Britain and Northern Ireland. In 1967, the Anguillan people staged a number of demonstrations to demand secession from Saint Kitts and Nevis. In the referendum held in July 1967, the vote was 1,813 to 5 in favour of independence. As a result, the legal ties to Saint Kitts were severed. Demonstrations and protracted negotiations were followed by the intervention of British security forces in 1969 and the Anguilla Act of 1971, whereby the United Kingdom reassumed direct responsibility for administration of the Territory, appointed a Commissioner and provided for the establishment of an Island Council. A separate Constitution came into effect in February 1976. In 1980, the Territory formally withdrew from the Associated State of Saint Kitts-Nevis-Anguilla and became a separate dependency (now Overseas Territory) of the United Kingdom.

3. In 1981 further constitutional talks between the Governments of Anguilla and the United Kingdom were held. The Chief Minister of Anguilla recommended that a new constitution, while not providing for a full measure of internal self-government, should nevertheless grant a substantial degree of additional local responsibility to the Government of Anguilla. The Anguilla House of Assembly approved the changes and the United Kingdom enabled the Anguilla (Constitution) Order to come into force on 1 April 1982. An outline of the Order is provided in the report of the United Nations visiting mission to Anguilla of 1984 (see A/AC.109/799, paras. 19-27). After the general election of 1984, the newly elected Government appealed for wider powers for the Executive Council, as well as for more aid and investment in the Territory's economy and infrastructure from the United Kingdom.

4. The latest Anguilla Constitution (Amendment) Order was adopted in 1990. The current Constitution evolved from the 1976 and the 1982 Constitution Orders and is the fourth Constitution that applies solely to Anguilla. According to the administrating Power, it gives a large measure of self-government and control over internal affairs to elected Ministers of the Government of Anguilla, while reserving certain responsibilities and powers for the Government of the United Kingdom through the Governor.

C. Population

5. According to the latest census conducted in 2001, Anguilla's population is 11,561. Women then made up 51 per cent of the population and men 49 per cent. The average annual increase in the population between 1992 (year of the previous census) and 2001 was 3.2 per cent. This was a slightly lower increase than the 4.3 per cent between 1984 and 1992. There are several thousand Anguillans living abroad, particularly in the United Kingdom, the United States of America and the United States Virgin Islands.

6. Of the total population, 99 per cent speaks English well enough to carry on a conversation. Spanish or Chinese are the most common mother tongues among non-English speakers. With respect to religion, 29 per cent of the population identified itself as Anglican and 24 per cent as Methodist. Pentecostal, Church of God, Seventh Day Adventist and Baptist adherents represented 7 to 8 per cent each of the population, while Roman Catholics represented 6 per cent.

II. Constitutional, legal and political issues

7. According to the Anguilla (Constitution) Order 1982, the Government of Anguilla consists of a Governor, an Executive Council and a House of Assembly. The Governor, who is appointed by the Queen, is responsible for defence, external affairs, internal security, including the police, international financial services, and public service appointments and the application to public servants of their terms and conditions of service. On all other matters, the Governor is required to consult with and act on the advice of the Executive Council. The Executive Council consists of the Chief Minister, not more than three other ministers and two ex officio members (the Attorney-General and the Deputy Governor). The Governor acts as Chairman. The House of Assembly is elected for five-year terms. It comprises a Speaker, seven members elected from single-member constituencies, the same two ex officio members as in the Executive Council and two members nominated by the Governor, one of whom is appointed upon the advice of the Chief Minister and the other following consultation with the Chief Minister and the leader of the opposition.

8. At present the Governor of Anguilla is Alan Huckle, who took up office in May 2004.

9. The elections in March 2000 brought to power a coalition, the United Front, formed by the Anguilla National Alliance and the Anguilla Democratic Party led by Chief Minister Osbourne Fleming of the Anguilla National Alliance. Hubert Hughes, of the Anguilla United Movement, was leader of the opposition until May 2004, when one of the elected representatives in his party transferred his support to Edison Baird, who was appointed leader of the opposition on 24 May 2004. Two other political parties — the Anguilla National Strategic Alliance and the Anguilla Progressive Party — were formed in 2004. The next election will be held in June 2005.[1]

10. The British Overseas Territories Act, which came into force in 2002, grants the right to full British citizenship to all inhabitants of the Territories and formally abolishes the terms "colony" and "dependent territory". That law allows Anguillans to hold British passports and work anywhere in the European Union.

11. Following the 1999 White Paper (for the text, see A/AC.109/1999/1 and Corr.1, annex; for key recommendations, see A/AC.109/1999/9, para. 28), the British Government encouraged the Territories under its administration to institute a constitutional review process. Within the framework of the White Paper, the Anguilla Committee for Constitutional and Electoral Reform, appointed in 2001, pursued its work throughout 2002 and 2003, but ground to a halt in 2004. The Governor indicated, in his 2004 Christmas message, that he wished to re-invigorate the discussion of constitutional and electoral reform after the elections in 2005.[1]

12. The issues brought to light during the constitutional review process, such as the role of the Governor and his relations with the elected administration (see A/AC.109/2003/11, para. 12, and A/AC.109/2004/10, paras. 12-14), continue to be discussed at sessions of the United Kingdom Overseas Territories Consultative Council held in London for the past six years. The latest meeting was held in London in September 2004 (see also sect. VII below).

13. In December 2003, a Government-conducted survey in Anguilla indicated that 51 per cent of the island's population were of the opinion that the Constitution needed to be changed. The survey also indicated that 76 per cent of the respondents favoured a more democratic relationship between Anguilla and the United Kingdom. Over 60 per cent of those surveyed were of the view that the Attorney General and the Deputy Governor should remain as members of the Executive Council, but an overwhelming majority considered that their roles should change.[1] On the issue of citizenship, two thirds of those surveyed thought that those acquiring "Belonger" (local citizenship) status through marriage to an Anguillan should have to apply for it rather than get it automatically after a five-year period.

14. The law of Anguilla is the common law of the United Kingdom, together with all legislation inherited from the former Associated State of Saint Kitts-Nevis-Anguilla up to August 1971 and the local legislation enacted since that date. The law is administered by the Eastern Caribbean Supreme Court, which comprises a Court of Appeal and a High Court of Justice, courts of summary jurisdiction and magistrate courts.

III. Budget

15. In December 2004, the Minister of Finance presented the 2005 budget to the House of Assembly under the theme "Anguilla incorporated, Open for business". The Minister of Finance explained that the Government's fiscal stabilization programme (2002-2004) had worked. The economy was projected to have double-digit growth in 2004 and the Government was expecting a recurrent surplus of EC$ 24 million for 2004, compared to EC$ 3 million in 2003.

16. The Minister of Finance was of the view that the economic and fiscal stabilization programme had put Anguilla on a path of sustainable economic development. Hotel and tourist sectors of the economy, which are offering world class services, were positively affected, in particular by the reconstruction of the runway for the Wallblake Airport and unprecedented investments made by the Government in marketing Anguilla as a tourist destination during 2004 (see also sect. IV below).

17. The Minister of Finance reported that, as part of a joint agreement with the Government of the United Kingdom on borrowing guidelines, the Government of Anguilla commenced in 2002 a programme to put aside money into reserves to achieve 90 days of recurrent expenditure by 2007. Under that programme, once the targets are maintained or exceeded, the prior approval of the Government of the United Kingdom will not be required for loans with a positive financial or economic rate of return. At the time that the 2005 budget was presented to the House of Assembly, the reserves stood at EC$ 10.2 million, which is marginally short of the target to be achieved by the end of 2005. According to the Minister, all the fiscal targets set by the Government of Anguilla for 2004 were exceeded.

18. According to the Minister of Finance, the recurrent budget for 2005 was projected at EC$ 97,189,584, with capital expenditure projected at EC$ 37,033,100. It will be financed by recurrent revenue of $102 million, the surplus from 2004 and borrowing. New loans of EC$ 12 million will be raised to finance a number of projects, while existing loans not fully utilized will be used to finance further improvement of the Wallblake Airport and the completion of roads started during 2004, which are also included in the 2005 capital budget.

19. As was reported in working paper A/AC.109/2004/10, paragraphs 22, 25 and 26, at the end of the 2004/05 United Kingdom financial year (31 March 2005), bilateral aid from the United Kingdom Government Department for International Development will cease. According to the administering Power, the Department for International Development agreed to an accelerated programme to finance some projects, including the creation of a computerized inland revenue system, building a mental health facility at the hospital and building a water laboratory in the environmental health unit. After the cessation of bilateral aid of the Department for International Development, Anguilla will still be entitled to receive grant financing from the European Development Fund, the United Nations Development Programme, the Good Government Fund of the Foreign and Commonwealth Office, the Foreign and Commonwealth Office/Department for International Development Overseas Territories Environment Programme and the Department for International Development Overseas Territories regional aid programme.[1]

IV. Economy

A. General

20. As reported in previous working papers (A/AC.109/2001/13, A/AC.109/2002/3, A/AC.109/2003/11, paras. 22-26, A/AC.109/2004/10, para. 24), after a decade of rapid growth, the economy of Anguilla slowed in 2000 as a result of natural disasters and overall global recession. The Government introduced the Strategic Country Programme 2002/03 aimed at diversifying the economy and preparing it to reduce vulnerability to external shocks. According to the information provided by the administering Power, since 2000, Anguilla has managed to register positive growth rates. During the period 2000 to 2003, the annual average rate of economic growth, as measured by the growth of gross domestic product (GDP) was 2.1 per cent. The tourism sector continued to be the main economic driver, accounting for on average 25 per cent of economic output during the period.

21. According to the administering Power, in 2004, Anguilla's economy was projected to grow considerably faster owing to activity in the construction sector and tourism-related projects, including the construction of a luxury golf course, club house, spa and five star boutique, hotel, estate homes and villas, which will be developed at a cost in excess of US$ 250 million over 10 years. Work within the public sector will include the next phase of the Wallblake Airport Expansion Project, with a project cost of US$ 20.7 million, and road development works (see also sect. IV below).

22. The Government of Anguilla is committed to achieving a growth rate over the next five years of not more than 12 per cent of GDP. The main driver will be foreign direct investment in tourism, information technology and other sectors. The key focus of investment policy in 2005 and beyond will be to promote and attract domestic and foreign investment to enterprises producing low-volume high-value products and services for export and domestic consumption; ensure that citizens of Anguilla in general participate substantially as investors owning enterprises in all sectors of the economy; restrict investment by non-citizens to specific sectors of the economy and specific enterprises; diversify the economy; promote innovation and development of new technologies and skills; promote export development, import substitution and replacement and intersectoral linkages in the economy; regulate the alienation of land to foreign companies and foreign nationals and encourage Anguillans to leverage that land into participation in joint venture projects; and develop an organizational plan to strengthen the capacity to manage and streamline the investment process for greater effectiveness.

23. The Government of Anguilla considers that economic activity on the scale targeted would allow it to fund key interventions in health, education and social development (community development, youth, culture and sports) and, in so doing, to further sustainable human development.[1]

B. Agriculture and fishery

24. Agricultural activity in Anguilla is limited due to a combination of factors, including poor soil, the small amount of arable land and irregular rainfall. Notwithstanding that, agriculture continues to play an important part in the livelihood of the local people. According to the information provided by the administering Power, in 2003, agriculture, including fish, crops and livestock, contributed about 2.9 per cent to GDP.

25. In response to demand for vegetables in the tourism sector and the increasing number of retail outlets, an increasing number of small farmers have invested in drip irrigation technology for intensive farming. An active farmer's association is cooperating with government technical officers to increase production of green vegetables and reduce the island's food import bill.

26. The Government considers that Anguilla's fisheries and marine resources hold the potential for the diversification of the tourism-dependent economy. In particular, deep-sea fishing resources in Anguilla's 200 mile Exclusive Economic Zone can be sustainably exploited to satisfy markets locally and regionally. The Government has plans for institutional strengthening and human resource development in order to effectively manage the island's fisheries and other marine resources.[1]

C. Tourism

27. Tourism continues to dominate the Anguillian economy. In 2003, the Territory received 109,282 visitors, 52 per cent of whom came from the United States, 5 per cent from the United Kingdom and 4 per cent from Canada. Tourist arrivals (stay-over visitors), which account for 42.9 per cent of the total visitor arrivals, increased by 7 per cent over 2002.

28. According to the administering Power, in addition to the construction of a luxury hotel and villa, as well as a golf course, a multimillion-dollar project was signed in 2004 for a major redevelopment of the Cocoloba resort complex (see also sect. III, para. 16, and sect. IV, para. 21, above).

29. According to the Government of Anguilla, the marketing and promotional activities of the Anguilla Tourist Board and the Anguilla Hotel and Tourism Association are having a positive impact on the industry, and a 20 per cent increase is projected for 2004, compared to 2003. Key initiatives include the establishment and expansion of marketing and public relations representation in several key markets — North America, Europe and the Caribbean; a jazz festival launched in conjunction with a television entertainment programme, which has resulted in a greater level of exposure; the promotion of visits to the island by travel writers from American and European magazines and newspapers, travel agents and tour operators; and a programme designed to raise the profile of the mid-market hotels and resorts.

30. The Government has increased the budgetary allocation for marketing substantially, the aim being to increase the number of tourist arrivals by 15,085 and to increase hotel occupancy rates from 45 per cent to 60 per cent in 2005.[1]

D. International financial services

31. Anguilla has a small but rapidly expanding international finance sector, specializing in trust and company registration, which brings in about 13 per cent of the Territory's GDP. Anguilla entered the field of financial services relatively late, the key legislation having been passed in 1994. There are no income, estate or capital gains taxes. Nor are there any exchange controls, and, although the official currency is the Eastern Caribbean dollar, the United States dollar is commonly used.

32. As reported in previous working papers (see A/AC.109/2001/13, paras. 31-35, A/AC.109/2002/3, paras. 43-47, and A/AC.109/2003/11, paras. 33-39), Anguilla's financial services largely meet current international standards. In March 2002, Anguilla committed to cooperate with the Organization for Economic Cooperation and Development and was removed from the list of uncooperative tax jurisdictions. During the reporting period, Anguilla continued to improve its legislation and further develop its financial services.

33. In order to further develop and strengthen the financial sector of the economy, the Government of Anguilla, with assistance from the private sector, prepared several legislative acts.

34. According to the Director of Financial Services of Anguilla, the Territory currently has a strong, well-regulated financial services infrastructure. As a "zero-tax" jurisdiction, Anguilla is competing with well-established giant financial centres

in Bermuda, the United States and the Far East, as well as with those elsewhere in the Caribbean.

35. Anguilla's Mutual Funds Act 2004 provides for the regulation, authorization and control of mutual funds and their managers and administrators carrying on business in or from within Anguilla. The types of mutual funds envisaged are private, professional and public. The other two pieces of new legislation that were passed in 2004 in Anguilla were the Protected Cell Companies Act and the Insurance Act, which establishes the Territory as a domicile for both domestic and foreign insurance business.[2]

36. In November 2003, the House of Assembly passed the Financial Services Commission Act to fulfil a recommendation of Klynveld Peat Marwick and Goerdeler (KPMG) consultants. The Commission was established in March 2004, as an independent regulatory body that focuses on licensing, supervision of licensees, monitoring of financial services in general, reviewing existing financial services legislation and making recommendations for new legislation, as well as maintaining contact with appropriate foreign and international regulatory authorities.[3]

37. Currently, Anguilla has in place effective anti-money-laundering legislation, including the Proceeds of Criminal Conduct Act, 2000; the Money Laundering Reporting Authority Act, 2000; the Anti-Money Laundering Regulations; the Guidance Notes on the Prevention of Money Laundering; and the Criminal Justice (International Cooperation) (Anguilla) Act. The Government of Anguilla reviewed and amended its proceeds of crime legislation and other areas of anti-money-laundering regulation to ensure compliance with the requirements of the international regulatory bodies, in particular the revised 40 recommendations of the Financial Action Task Force on Money Laundering, as well as the eight special recommendations on terrorist financing.

38. An important component of the financial service industry of the Territory is the Anguilla Commercial Online Registration Network (ACORN). At present, it allows 95 per cent of all documents, including new registrations, to be filed electronically by locally licensed service providers and their approved overseas agents. The exemplary performance of the Network was noted in the review of Anguilla's financial services by the KPMG consultants, who stated, "Of particular note is the development of the ACORN company registration system and the operation of the company registry in general, which we consider to be an example of how online registration can be developed in a well regulated manner". Recently, the Network was given the ability to incorporate electronically companies with Chinese characters representing the name. Other languages currently available on the Network include French, Spanish and Russian (Cyrillic alphabet).

39. According to the information provided by the administering Power, Anguilla, along with the other United Kingdom Territories in the Caribbean, has agreed to implement the European Union Taxation of Savings Directive when it comes into effect in 2005. Agreements with each European Union member State are being signed and implementing legislation will be enacted in the Territory.

E. Transport

General

40. Anguilla has approximately 150 kilometres of roads, of which 80 kilometres are paved. Continuation of the government road improvement programme is the second priority of the capital budget (after development of the airport).

41. In 2003, two road construction projects were ongoing throughout the island. The first one, the hurricane Lenny road rehabilitation project involved the reconstruction of roads in Shoal Bay West, Sandy Ground, George Hill, the Quarter, East End and Island Harbour, which were damaged by Hurricane Lenny. Funding for the project was provided through a loan of EC$ 9.9 million obtained from the Caribbean Development Bank and local counterpart financing of EC$ 2.1 million. The second project was the Little Harbour to Blowing Point Road, constructed at a cost of EC$ 6.5 million through a grant from the European Development Fund.

42. The 2004 budget allocated a record amount of EC$ 67.61 million to capital expenditure in order to provide funding for vital public infrastructure. The expenditure was devoted primarily to the completion of road development programmes commenced in 2003 and the implementation of additional essential road construction delayed for a number of years. The airport project and road development together will account for 82.6 per cent of total capital spending in 2004.

43. According to the administering Power, Anguilla's road development programme is nearing completion and is designed to complement developments in the tourism and air transport sectors. When completed, the major roads linking the airport with the Blowing Point ferry terminal and the main hotels will have been significantly upgraded. In another phase scheduled for 2005, the roads around the capital (the Valley) will be upgraded.

Seaports

44. Anguilla has two ports, one at Blowing Point and the other at Road Bay. As of December 2001, Anguilla had three ships registered with Lloyd's of London, with a total displacement of 701 tons.

45. In 2004, Anguilla, with the assistance of the Government of the United Kingdom, updated its legislation and security infrastructure and procedures at the ports in compliance with the new requirements of the International Ship and Port Security Code. Certification was achieved for both ports. The Government also worked with the local shipping industry to ensure that it was compliant.[7]

Airports

46. As reported in previous working papers (A/AC.109/2002/3, para. 51, and A/AC.109/2003/11, para. 45), the Government of Anguilla has continued to work on the extension of the Wallblake Airport runway. Initial plans involved an extension of the runway east. Following a legal dispute, currently under appeal, the Government of Anguilla redesigned the project to include an extension of 5,500 feet (1,664 metres) west. With that extension, the airport will be able to accommodate ATR-72 planes flown by American Eagle and a number of private jets, which hitherto had to land at St. Maarten, Saint Kitts and Nevis or St. Thomas, and small charter planes.

47. Work on the project started in May and the runway was completed in December 2004. In the longer term, the Government of Anguilla plans a further upgrade to the airport terminal in 2005 and the creation of an airport authority.[1]

48. Of the total ECS 67.61 million in capital expenditure, the expansion of Wallblake Airport will account for ECS 49.22 million, or 72.8 per cent. The amount of ECS 40.5 million to finance the project has come from commercial bank loans. Over a three-year period, 67 per cent of the borrowing will be repaid from the European Development Fund allotment. The main source of funds for the acquisition of land and resettlement has been the sale of shares of the Anguilla Electric Company.

F. Communications and electricity

49. Anguilla has a modern internal telephone system and a microwave relay to St. Maarten/St. Martin for international calls. The system is operated under a monopoly by Cable and Wireless Ltd., which has a number of Caribbean franchises. The communications sector accounts for 11.9 per cent of GDP.

50. In April 2003, an agreement was reached with Cable and Wireless Ltd. for the liberalization of the telecommunications industry. That process was supported by the Government of the United Kingdom through the provision of technical assistance and funding. A transition plan was agreed on that envisages full liberalization of the sector in 12 months, conditional on the completion of necessary regulations. Proposals were invited from interested mobile operators for two new licences. By the end of 2004 two new mobile licences were issued, one to a fully locally owned company and the other to a joint venture between an international operator and a local company. The sector will be fully liberalized by the beginning of 2005.[1]

51. According to the information provided by the administering Power, in May 2004, the Public Utilities Commission was established and is now operational. It is an independent statutory body whose operations are funded by levies on the regulated sectors. Through an international recruitment process, the Government of Anguilla has selected an Executive Director for the Commission, which will regulate the industry, including the electricity and water sectors.

52. In 2003, the Government fulfilled a long-standing commitment to make some of the shares of the Anguilla Electricity Company available to the general public. The response to the public offering was strong. With the share issue closed on 1 September 2003, the Government received EC$ 15.95 million from the sale after cost. There were over 1,000 new shareholders, who now own 55 per cent of the company. The proceeds from the sale were added to the Government's capital revenue for 2003. In September 2004, the company held its first annual general meeting since divestment, when a new Board of Directors was declared and the first dividend to shareholders was paid.[1]

V. Social conditions

A. General

53. Living standards and social indicators in Anguilla compare favourably with those of other countries in the region. Per capita income was approximately US$ 7,700 in 2003. The literacy rate is 95 per cent. According to the results of the 2001 census, the life expectancy for a female at birth is 78 years, while for a male it is 77.9 years, showing a considerable increase from 1974, when it was 69 years for females and 65 years for males.

54. Anguilla has had a social security scheme since 1982. In 2001 the Government announced plans to establish a permanent social welfare programme within the Social Security Board to assist the elderly and other economically deprived groups.

55. As was reported in working paper A/AC.109/2004/10, paragraph 57, in December 2003 the Government replaced the non-contributory pension system for public servants with a contributory scheme. The normal retirement age was also increased to 60, and to 65 for certain categories of workers.

56. In October 2004, within the framework of the reform and modernization of the public service, the Governor appointed a three-member integrity board to examine the conflict of interests of public servants and to advise how to resolve them. The board's duties include investigating and reporting to the Governor allegations against public servants related to double employment, examining requests from public servants to hold interest in commercial undertakings or be engaged in private work and establishing the register of interests of public servants. According to the Governor, there is no intention to stop double employment in the Territory with a small workforce, but the objective is to ensure that such activities do not raise doubts about the integrity of public administration.

B. Education

57. Education on Anguilla is free and compulsory between the ages of 5 and 17. Formal education is delivered through a structured education system from pre-primary to post secondary levels. There are 11 private pre-schools on Anguilla, of which 10 are subsidized by the Government to facilitate access to them. Children between the ages of three and five attend those schools. Current enrolment stands at 437.

58. Children between the ages of 5 and 12 attend primary school. There are six public primary schools, one private assisted primary school and one private school. Special education services are provided at two special education centres attached to the larger primary schools. Education and support for students with special needs are also provided at those centres.

59. Secondary education in Anguilla is provided at the two campuses — Campus A and Campus B — of the only secondary educational institution on Anguilla, the Albena Lake-Hodge Comprehensive School. Campus B is a new addition, recently built to address the need for additional accommodation. There are some 1,145 students currently enrolled at the school.

60. The Adult and Continuing Education Unit of the Department of Education and the University of the West Indies Distance Education Centre provide tertiary education in Anguilla. Adult and continuing education offer primary and secondary teacher-training programmes. The University of the West Indies extension campus in Anguilla offers a range of distance education programmes to students on Anguilla based on the system at the University.[7]

C. Public health

61. According to the information provided by the administering Power, despite economic challenges, the Government of Anguilla has embarked on an ambitious health sector reform programme that used the Alma Ata Declaration of 1978 as its base to ensure equitable, affordable and accessible primary and secondary health care to all citizens through a decentralized health service model.[8]

62. The Board of the Health Authority of Anguilla was installed in December 2003 and took control of, and responsibility for, all secondary, primary and personal health-care services in January 2004. That shift in the health services delivery model, from Government to statutory board, is based on the belief that a decentralized service should be more efficient, effective, accountable and flexible with regard to the type of care provided to the people of Anguilla.

63. The Government of Anguilla's other health priorities, as set out in the strategic plan for health for 2003-2008, include the continued strengthening of primary and secondary health-care services, the development of the Health Protection and Quality Assurance Department of the Ministry of Health, which includes environmental health, water quality monitoring, solid waste disposal services and the regulation of public and private health services, the expansion of mental health and psychiatric services, care of the elderly, the prevention and treatment of HIV/AIDS and other communicable disease, the development of human resources, the provision of family health services, decreasing the cases and effects of chronic non-communicable diseases and the implementation of a health-care financing mechanism — national health insurance — which should be introduced in 2005.

64. As a result of the health reform process, the Ministry of Social Development itself has undergone significant changes in its structure and function. In addition to its responsibility for departments such as education, social development, sports, youth and culture and correctional services, the Ministry is now charged with regulating and monitoring public and private health sectors, including the Health Authority of Anguilla. Under this new arrangement, the Ministry of Social Development will perform policy-making, regulatory and purchasing roles related to health services through the Department of Quality Assurance and Health Protection.

65. The 2004 budget makes provision for EC$ 11.175 million for the Health Authority of Anguilla. Expenditure on health services, including regulation and protection, accounts for approximately 15 per cent of the recurrent expenditure estimates.[9]

D. Crime

66. The crime rate in Anguilla is low by regional and international standards. However, the pattern of crime in the territory is changing. The island has experienced the emergence of crime, which was formerly foreign to the Territory, albeit from a very low base. In 2003, there was an increase in firearm crimes. Firearm incidents rose from 3 offences in 2002 to 11 offences in 2003. Two firearm incidents resulted in the death of two persons, which was new to Anguilla, and provided a challenge for law enforcement.

67. The challenge for Anguilla's law enforcement agencies will be to prevent drug crime, firearm crime and other serious crimes infiltrating the Anguilla community. In 2004, the departments of prison, customs and immigration and the Royal Anguilla Police Force signed a memorandum of understanding that clearly identifies the role of each agency when on duty. The agencies are in the process of finalizing an operational strategy to deal with crime-related problems.

68. In 2004, the police department re-commissioned the police launch *Dolphin*. The vessel had been out of commission for three years. This vessel, with its present capability, will assist greatly in enforcing and maintaining fisheries, immigration and customs laws and in apprehending those who carry out illegal activities in Anguilla's territorial waters.[5]

VI. Relations with international organizations/arrangements

69. Anguilla is a member of the Eastern Caribbean Central Bank, an associate member of the Organization of Eastern Caribbean States, the Association of Caribbean States, the Economic Commission for Latin America and the Caribbean and the Caribbean Community and Common Market. As a Non-Self-Governing Territory of the United Kingdom, Anguilla has the status of Overseas Territory in association with, but is not part of, the European Union.

70. According to the administering Power, the Government of Anguilla cooperates directly with other Caribbean Governments and participates in regional projects of various international organizations and agencies.[5]

VII. Future status of the Territory

A. Position of the territorial Government

71. The Constitutional Review Committee was set up by the Government of Anguilla in 2001 and has been assisted by the administering Power and the United Nations Development Programme. Its work ground to a halt, however, in early 2004.

72. In May 2003, the Government of Anguilla, in collaboration with the United Kingdom, hosted the Caribbean Regional Seminar on Advancing the Decolonization Process in the Caribbean and Bermuda, organized by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.[6] The landmark nature of the seminar, held for the first time in a Non-Self-Governing Territory, was welcomed by the international community.

73. The seminar had a notable educational impact on both the leadership and civil society in Anguilla and triggered a useful discussion related to the political, economic and social aspects of Anguilla's status as a Non-Self-Governing Territory and its options in achieving self-determination.

74. At the meeting of the Overseas Territories Consultative Council in London in December 2003, the Minister of Finance of Anguilla presented a paper critical of the administering Power's handling of self-determination for the Territories. He gave examples of perceived inconsistencies between the stated international commitment to self-determination by the Government of the United Kingdom and certain negative messages given to the United Kingdom Territories. According to the paper, the partnership enshrined in the 1999 White Paper was a colonial relationship, not one of political equality. The Minister urged the United Kingdom not to shut the door on "free association", which, in his view, could be based on a model agreed by the two parties, and called upon them to work together towards political equality for Territories. The removal of the United Kingdom's power to legislate in the Territories would be a precursor for such equality, which is in itself a key criterion for removal of a Territory from the United Nations list of Non-Self-Governing Territories. Otherwise, the paper stated, the Territories would remain dependencies. The paper also referred to the lack of information in the Territories about constitutional options.

75. The concept of free association was also touched on by the Minister of Finance in his budget address to the House of Assembly in December 2003. He stated that during the public consultations, the concept of free association with the United Kingdom had received attention. He viewed it as a "halfway house" towards full independence, whereby Anguilla would attain full internal self-government, with defence and external relations remaining the preserve of the United Kingdom. He considered that the best known example of a free association arrangement is that of the Cook Islands and Niue in free association with New Zealand. He underlined that constitutional development was a fundamental right of a people and was enshrined in many resolutions of the United Nations. Consequently, it was the view of the Government of Anguilla that Anguillans must have more scope when it comes to choosing their way forward constitutionally. He firmly believed that any attempt by the Government of the United Kingdom to determine or constrain the constitutional and electoral reform process would not be in line with United Nations mandates.

76. According to the information provided by the administering Power, both the Chief Minister and the Minister of Finance shared similar concerns aired at the Overseas Territories Consultative Council in September 2004. The Chief Minister, Mr. Osbourne Fleming, did, however, say that Anguilla had a good relationship with the United Kingdom, which had improved significantly over the years. But he argued that the Territories should be given more autonomy. He wanted Anguilla to have a Bermuda-style constitution, although it had not yet reached Bermuda's stage of development.

B. Position of the administering Power

77. In his statement at the 3rd meeting of the Fourth Committee, held on 5 October 2004, at the fifty-ninth session of the General Assembly (see A/C.4/59/SR.3), the representative of the United Kingdom said that his Government again welcomed the

opportunity, as administering Power for 10 of the 16 Territories on the United Nations list of Non-Self-Governing Territories, to update the Committee on developments since it last met.

78. He stated that the partnership between the United Kingdom and its Overseas Territories continued to develop. The sixth annual meeting of the Overseas Territories Consultative Council had been held in London in September 2004. The Council, which had been chaired by Bill Rammell MP, Minister for the Overseas Territories, was the forum for dialogue between democratically elected chief ministers and their equivalents from the Territories and with United Kingdom government ministers. The meeting in 2004 again gave the opportunity for discussion on the relationship between the United Kingdom and the Territories, on constitutional modernization issues, on sustainable development, including good governance and environmental matters, and on other issues relating to the United Kingdom's international obligations.

79. The representative stated that Mr. Rammell had made useful visits to two of the Territories, the Falkland Islands (Malvinas) and the British Virgin Islands, over the past year. These had enabled him to meet a range of people in the two Territories and to get better, first-hand knowledge of them. He had also been able to have discussions on a wide range of issues with elected representatives in their own territories.

80. The United Kingdom, he pointed out, welcomed the progress being made in the constitutional review process. Useful and productive discussions had been held over the past year by United Kingdom officials with representatives of Montserrat, St. Helena and the Turks and Caicos Islands. In St. Helena a draft constitution had been prepared and wider consultation on it was under way. Constitutional reform proposals for Gibraltar had been tabled in December 2003. Dates had not yet been set for formal talks.

81. Conscious of the limited resources in a number of the Territories, the United Kingdom Government was continuing to support projects in various fields to raise local capacity and to promote sustainable development and good governance. Projects ranged from economic diversification, to the reform of legislation governing child and family welfare, to a study on alternatives to custodial sentencing.

82. He recalled that in 2003 the representative of the United Kingdom had said that additional funds had been expected to be provided by the Foreign and Commonwealth Office and the Department for International Development to support environment work in the Territories and the implementation of the Overseas Territories Environment Charters, signed in 2001. This joint Overseas Territories Environment Programme was funding 23 new projects in 2004/05, of which three were multi-Territory initiatives. These included habitat restoration, surveys of natural living resources and capacity-building for both government and civil society institutions.

83. Regrettably, he said, the Caribbean had again suffered badly from hurricanes and, in the context of the Territories, he mentioned the devastation caused by hurricane Ivan to the Cayman Islands, despite good local contingency planning. The United Kingdom had been able to provide some immediate help, and other Territories and neighbouring States had also helped. The United Kingdom and the

Cayman Islands were very grateful to all for their assistance. Although much remained to be done, encouraging steps were being taken to enable the Territory to return to normality. The Turks and Caicos Islands also had suffered extensive damage in part of the Territory a few weeks earlier.

84. The United Kingdom representative mentioned that, in response to requests from some Overseas Territories for help in accessing European Commission economic, trade and development assistance, an official responsible for liaising with the Commission had been appointed last year to the Foreign and Commonwealth Office Overseas Territories Department. He continued to work with several of the Territories in identifying and pursuing Commission development aid as provided for under the European Union-Overseas Countries and Territories Association decision of November 2001.

85. The representative said that the United Kingdom continued its informal cooperation with the Special Committee. The most recent involvement had been when a United Kingdom representative had attended and presented a paper on constitutional developments in the United Kingdom Territories at the Special Committee's seminar in Papua New Guinea in May 2004. He stated that perhaps the most positive recent development was the proposal for a visit to Bermuda, with a view to considering movement towards that Territory's delisting. He concluded by saying that the Secretariat was in touch directly with Bermuda in preparing for that.

C. Consideration by the United Nations

86. On 10 December 2004, the General Assembly adopted resolutions 59/134 A and B. Section II of resolution 59/134 B is devoted specifically to Anguilla.

Notes

[1] Information provided by the administering Power.

[2] International Money Marketing, November 2004.

[3] Ibid., March 2004.

[4] *The Anguillian*, 29 October 2004.

[5] Declaration adopted by the World Health Organization Conference in Alma Ata, Kazakhstan (former Soviet Union) in 1978, set goals for global improvement in health (see www.who.int).

[6] A/58/23, chap. II, annex.

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Bermuda

Working paper prepared by the Secretariat

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I. Background information

1. Bermuda[1] is located in the western part of the Atlantic Ocean, about 917 kilometres east of the North Carolina coast of the United States of America. The Territory consists of 8 major islands and 130 smaller islands. The largest is Great Island, or Main Island. Hamilton, the capital, and St. George's are the two main towns.

2. Until recently, it was considered that Bermuda was discovered in 1503. Local historians now believe the Spanish navigator Juan de Bermúdez first spotted Bermuda in 1505. On the basis of the new historical evidence, the celebrations marking the 500th anniversary of the discovery of Bermuda, which had initially been scheduled for 2003, will be held in 2005.[2] In 1609, Bermuda was settled by a group of English colonists and in 1610, the first slaves were brought to work on the farms and to dive for pearls. In 1620, the first Parliament was held after the Crown granted the colony limited self-government. In 1968, Bermuda was granted internal self-government and a new constitution. In 1995, a referendum was held on the question of independence. Of the 58.8 per cent of eligible voters who participated, which is a small number by Bermudian standards, 73.6 per cent voted against independence.

3. According to the 2000 census, Bermuda's population grew by 6 per cent to 62,098 since the last census in 1991. The number of foreign-born inhabitants grew by 12 per cent and represented around 30 per cent of the population. The workforce grew to 36,878, an 11 per cent rise over the decade. The inhabitants of African descent constituted 60 per cent of the population, while 40 per cent were of North American or European descent. The Territory is very densely populated (approximately 1,180 inhabitants per square kilometre). It is also on the list of countries with the highest urban population, as 100 per cent of its population lives in urban areas.

II. Constitutional, political and legal issues

4. Bermuda is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The constitution of Bermuda, adopted in 1968 and amended in 1973, 1979, 1989, 2001 and 2003, contains provisions relating to the protection of fundamental rights and freedoms of the individual. The Governor is appointed by the Queen and the Government of the United Kingdom, after consultations with the Prime Minister. The Governor is responsible for defence, external affairs, internal security and the police. Bermuda has a parliamentary system of government. The Government of Bermuda comprises a Governor, a Deputy Governor, a Cabinet and a bicameral legislature with a House of Assembly of 36 members directly elected for a five-year term and a Senate of 11 appointed members. Five members of the Senate are appointed by the Governor, on the advice of the Prime Minister, three on the advice of the leader of the opposition and three by the Governor at his discretion. The Territory maintains a 700-strong defence regiment; the adult male population is subject to military conscription, involving three years' part-time liability for weekly drills and an annual camp. It has a police force of approximately 450 full-time officers and several hundred part-time police reserves. The Governor of Bermuda, John Vereker, took office in April 2002.

5. Bermuda's law and legal system are based on English common law and principles of equity, English statute law in force since 1612 and Acts of the Bermuda Parliament passed since then. The judiciary is a separate body from the Government, and its members are not elected but appointed on the advice of the Chief Justice. There are three courts presiding in Bermuda, namely, the Magistrates' Court, the Supreme Court and the Court of Appeal.

6. There are three main political parties in the Territory. The Progressive Labour Party (PLP) was the first party to be formed by the black population of Bermuda in 1963 to gain representation and power in a white-controlled political and economic system. The United Bermuda Party (UBP) was formed in 1964 by whites opposed to PLP policies. The National Liberal Party (NLP) seeks a middle ground. The Prime Minister is chosen from the majority party and heads a Cabinet of no more than 14 members of the legislature.

7. Bermuda voters in the elections or referendums must be 18 years of age. They must be Bermudian by birth or status, or non-Bermudian, long-term residents of Bermuda who are citizens of the British Commonwealth and have been registered to vote annually since 1979. Automatic citizenship applies to children born in Bermuda, except to those without either parent being Bermudian by birth or status.

8. The Overseas Territories Act, which came into force in 2002, provides British citizenship to the peoples of its Overseas Territories, including Bermudians. That law allows Bermudians to hold British passports and work anywhere in the European Union.

9. The latest general election in 2003 left PLP in power for a second term. It now occupies 22 seats in the House of Assembly. UBP occupies the remaining 14 seats. The Prime Minister is Alexandre Scott.

10. As was reported in last year's working paper (A/AC.109/2004/14, paras. 10-11), the 2003 election was held under a new electoral system instituted by the 2003 constitutional amendments and implementing acts, which replaced the 20 unequal dual-seat constituencies with 36 single-member equally sized constituencies. The new system also introduced the one-person, one-vote principle. The next election must be held before 2008.

11. As was further reported in last year's working paper (A/AC.109/2004/14, paras. 13 and 52), following the controversy regarding the procedure used to effect the 2003 constitutional amendments and the criticism by the UBP that public consultation had been insufficient, in late 2003, the Governor of Bermuda sought public input on how the constitution should be changed. In February 2004, the Government made a submission on constitutional change to the Governor.[3]

12. Throughout 2004, political debate and public discussions on the issue of Bermuda's independence continued. In March 2004, the Prime Minister of the Territory put the issue of Bermuda's independence on the Government's formal agenda.[4] In December 2004, the Government set up the Bermuda Independence Commission. (see sect. VII).

III. Budget

13. The budget of Bermuda for the fiscal year 2004-2005 was presented in February 2004 by the Minister of Finance.

14. The Minister stated that in relation to the fiscal year 2003-2004, the cost of the overall damage caused by hurricane Fabian, which hit Bermuda in September 2003 (see para. 21 below), was estimated at $160 to $180 million. The hotel sector temporarily lost 20 per cent of its capacity and, as a result, there was a rise in short-term structural unemployment, with a negative effect in related sectors. The agricultural sector was also devastated by the hurricane with farmers suffering losses estimated at between $2 and $3 million.

15. Government expenditure for the fiscal year 2004 was revised upward from $624.9 million to $643.2 million, to cover the unanticipated costs of hurricane Fabian and an extraordinary transfer of $3.5 million to the Bermuda Monetary Authority. Government revenue for the same period was revised upward from $650 million to an estimated $666 million.

16. The Government's total planned expenditure for the fiscal year 2004-2005 is $660.2 million. The increase in expenditure, as compared to the original estimates for the previous year, is related to the public sector arbitration awards for salary increases in 2003. In the 2004 to 2005 period, the Government proposes to collect revenues of $693.9 million.

17. The Government forecasts Bermuda's gross domestic product (GDP) to grow in the range of 2.0 to 2.5 per cent in 2004.

18. In May 2004, the Government announced that it intended to renegotiate $75 million of its debt through a 10-year private placement. The total Government borrowing at the end of March 2005 is forecast to be $216 million, around 8 per cent of GDP, which is 2 per cent below the borrowing ceiling imposed by the United Kingdom of Great Britain and Northern Ireland.[5]

IV. Economy

A. General

19. Bermuda has no natural resources, in the conventional sense, upon which to build a viable economy. It has historically capitalized on its location and scenic beauty and has developed a renowned tourist industry. Financial services, international business and tourism are the main economic sectors and account for the bulk of the Territory's foreign-exchange earnings. The 2000 census statistics have confirmed Bermuda's transition from a two-pillar economy based on tourism and international business to an economy based on offshore financial services with a tourism industry as a support. The public sector plays a large role in Bermuda's economy. More than 13 per cent of the workforce is either directly or indirectly employed by the Government. Manufacturing and agriculture exist on a limited scale and therefore contribute little to the economy of Bermuda. The local manufacturing sector includes printing, fish processing, ship repair, tourist-related crafts and the manufacture of paint. Agricultural activity is constrained by the small amount of land available for farming. Some production of vegetables and citrus

fruits is undertaken, and flowers are grown for export. Construction is becoming a more significant sector, employing 6.9 per cent of the labour force, compared to 3.2 per cent in manufacturing. Bermuda imports 90 per cent of its food requirements. Bermuda's openness to the world economy and strong links to the United States of America's economy largely determine its pattern of economic growth.

20. GDP purchasing power parity in 2003 was around $2.33 billion, GDP real growth rate was approximately 2 per cent and per capita purchasing power parity was $36,000, one of the highest in the world.[6] At the same time, Bermuda's high cost of living relegates it to ninth place on the list of countries with the highest purchasing power.[7] In September 2004, Bermuda's inflation rate rose to 3.9 per cent, representing the highest inflation level in 14 years. According to the Economist Intelligence Unit, the rise in inflation can be attributed to an "overheating economy" fuelled by the rapid growth of the international business sector along with rising costs of health, education and transport.[8]

21. As reported in last year's working paper (A/AC.109/2004/14), in September 2003, Bermuda was hit by hurricane Fabian, which was the most powerful hurricane to hit the Territory in over 50 years. The hurricane had a significant social and economic impact upon the country, particularly in the tourism and agriculture sectors (see para. 14 above). However, according to the Minister of Finance, the sound economic situation, complemented by the strong insurance sector, absorbed the shock of the hurricane.[9]

B. Financial services

22. As was reported in last year's working paper (A/AC.109/2004/14, paras. 21 and 22), until 2003, foreign banks had not been allowed to operate in Bermuda, creating a quasi-monopoly for local banks in handling international business operations for offshore clients. In 2003, after the Government of Bermuda changed the rule limiting outside ownership, the Bank of Bermuda was purchased by the British HSBC Bank for $1.3 billion.[10]

23. Bermuda is one of the world's leading offshore financial and business centres and the third largest insurance market. During the reporting period, the international business sector, including insurance, reinsurance and mutual fund management and administration, continued to dominate the economy. Bermuda remains the world's leading domicile for captive insurance and reinsurance companies. In addition, Bermuda is developing its trust business and the provision of services for mutual funds and asset managers.

24. Bermuda's financial sector is well regulated. There is no central bank in Bermuda; instead, the Bermuda Monetary Authority (BMA) is the regulatory authority for banks and trust companies. The BMA has vast powers, including the power to conduct on-site supervisory review for long-term Bermuda insurers. As was reported in last year's working paper (A/AC.109/2004/14, para. 25), in 2003, the International Monetary Fund (IMF) indicated the need for further enhancement of the supervisory and regulatory processes in the Territory. The Government intends to amend the relevant legislation so that licence fees now payable to the Government will, in the future, be paid directly to the BMA, allowing it a further degree of independence from the Government in accordance with the IMF recommendations.[11] In further anti-money-laundering efforts, in 2004, the

Government expanded Bermuda's Financial Investigation Unit from 5 posts to 13, following the recommendations made by the Foreign and Commonwealth Office upon examination of the Klynveld Peat Marwick and Goerdeler review of the system.[12]

C. Tourism

25. As was reported in last year's working paper (A/AC.109/2004/14, para. 26), Bermuda's tourism sector has experienced a decline since the 1980s, owing mostly to increased competition from cheaper destinations and the growth of cruise ship tourism as well as to fluctuations in international economy. According to information provided by the administering Power, in 2004, Bermuda's travel and tourism industry would generate 6.2 per cent of GDP and 3,231 jobs, while the broader travel and tourism economy would generate 24.1 per cent of GDP and 10,333 jobs.[13]

26. In 2004, Bermuda was visited by 480,000 tourists, which represented a marginal drop compared to 2003. During 2004, air arrivals rose by approximately 5 per cent from 2003 levels. However, the lack of "mega" cruise ship arrivals contributed to the overall decline in tourist numbers.[14]

27. At the beginning of 2004, the Economist Intelligence Unit reported that the number of workers in the hotel industry declined by 19.5 per cent owing to the effects of hurricane Fabian and the closure of two major hotels for refurbishment.[15]

28. According to the administering Power, in 2004 the Government continued to take measures to stimulate the tourism sector. It negotiated several new flight routes and embarked upon promoting Bermuda as a travel destination in targeted countries in Europe.[16]

D. Construction

29. Bermuda's construction industry benefits from both private and public sector investment. In 2004, the strong performance in the construction sector continued, with some industry analysts predicting that it will last for another five years.[17]

30. Despite the strength in the construction industry, there continues to be a problem with housing in the Territory. The construction of new homes is unable to keep pace with the need for housing and there is a distinct lack of affordable housing. The price of homes continues to rise steadily, leaving part of the population in a disadvantaged position. In an effort to address this problem, the Minister for Finance announced in the 2004/2005 budget speech an initiative to provide affordable housing. The initiative resulted in a partnership between the Government and the private sector to build 200 homes on the site of a former United States of America base (see sect. VI below). Half of the homes will be sold at market price and will partly subsidize the other half, which will be sold below market price. The project is due to be completed in April 2006 and is being treated as a pilot scheme after which similar projects may follow. At the same time, the opposition UBP criticized the Government for starting the project by ministerial decree rather than through the planning process.[18]

E. Transport and communications

31. Bermuda has very high standard transport and telecommunications systems. There is a network of about 225 kilometres of paved public roads and another 400 kilometres of private roads on the island. The number of cars licensed to operate on Bermuda's roads has increased by 70 per cent since 1980.

32. Airport services are reported to have improved considerably in recent years. There are regular and well-established services between Bermuda and the United States, Canada and the United Kingdom.

V. Military issues

33. As reported in previous working papers (A/AC.109/2000/13, paras. 17 to 21; A/AC.109/2001/15, paras. 35 and 36; A/AC.109/2002/13, paras. 40 and 41; and A/AC.109/2004/14, paras. 36 and 37), in 2002 the Government of Bermuda received $11 million from the United States of America as part of the termination of the United States Base Lands Agreement. In the 2004/2005 budget statement, the Minister of Finance reported that the Government planned to invest the settlement payment into maintenance and repairs of Longbird Bridge, housing for the homeless, an extraordinary injection of funds into the Contributory Pension Fund and the provision of funds for the National Drugs Commission, the Bermuda Small Business Development Corporation and the National Sports Centre, with $3 million being retained as a general reserve (see paras. 28 and 29 above).[19]

VI. Social conditions

A. General

34. As was reported in the 2003 working paper (A/AC.109/2003/13, paras. 42 and 43), while Bermuda's GDP is among the highest in the world, redressing inequalities in wealth on the island has been a priority for the current Government. According to the 2000 census, income inequalities based on race, gender and nationality have persisted. During the reporting period, the Government continued to make efforts to implement its comprehensive social agenda, focusing upon sustainable development, economic empowerment, housing, developing a highly skilled and educated workforce, youth development, seniors, personal security and improving Bermuda citizens' quality of life. The 2004/2005 budget revealed a greater public spending on social initiatives associated with senior citizens and affordable housing.[20]

B. Labour

35. Results of the annual employment survey, released in 2004, indicate that there was a marginal decline in overall employment in Bermuda of 0.4 per cent in 2003. However, during the same time, employment in the international business sector rose by 5.3 per cent and in the public and real estate sectors by 2.0 per cent.[21]

36. With near-full employment and full pension coverage for Bermudians, most labour issues concern the quality of work available and the effect of foreign workers on the Bermuda labour market. As was reported in last year's working paper (A/AC.109/2004/14, para. 39), in 2001 the Government introduced a limit of six years on working permits for foreigners, except key employees who can obtain work permits for nine years. Some categories of employment were exempt from these limitations. During 2004, the Government announced additional exempted job categories.

C. Education

37. Education in Bermuda is compulsory for all children from 5 to 16 years of age and is free in government schools. The literacy rate is high: 98 per cent of all males and 99 per cent of females 15 years of age and over can read and write. There are 39 State schools (30 primary, 5 middle, 2 secondary and 2 special schools) as well as several private schools. There are no degree-conferring universities in Bermuda. The Government awards a number of scholarships each year to young Bermudians accepted at universities in the United States, Canada and the United Kingdom. Scholarships are also awarded by local banks, principal law firms and Bermuda-based international companies. Under the Government's National Education Guarantee Scheme, begun in 1994, no Bermudian student with university potential is denied an opportunity for further education owing to a lack of funds.

38. Bermuda considers the high level of education of its inhabitants to be a major component of its comparative advantage relative to other offshore centres. According to the 2000 census, 20 per cent of Bermuda residents hold university degrees. At the same time, almost half of Bermuda's public school students leave school without completing their secondary school certificate. The 2000 census also revealed a serious disparity between the proportion of white students going to private schools (three quarters) and black students attending the government educational system. The racial disparity in levels of education is reflected in employment in the international business sector. To further advance the quality of education, the Government embarked upon a dramatic review and reform.[22]

D. Public health

39. Medical care is provided by private practitioners and three government health clinics. Fees are charged for hospital care and medical insurance is compulsory for all workers. A hospital levy covers the cost of services rendered by the hospitals to children under 16 years of age. Indigent persons over 65 years of age pay 20 per cent of hospital costs. According to the Health Insurance Association of Bermuda, the cost of health care has increased 100 per cent over the past decade owing to greater technology, an ageing population and more demanding patients. According to the information provided by the administering Power, in 2004 the new Tuberculosis, Cancer and Health Association Cancer Resource Centre was opened.

40. Also in 2004, the Bermuda Health Council Act 2004 was passed providing for the establishment of a Health Council to oversee and direct health care in the Territory.

41. According to *The Economist*, Bermuda ranks sixth in the world for the incidence of AIDS. In 2004, doctors were warning that sexual contact had replaced injection drug use as the chief cause of HIV/AIDS transmission in Bermuda.[23]

E. Crime

42. As reported in the 2003 working paper (A/AC.109/2003/13, para. 46), there was significant criminal activity in Bermuda in 2003, including a high incidence of violent and drug-related crimes, in response to which the Government took steps to strengthen its police services. The increase in violent crime continued in 2004. A significant increase of crime was gang violence involving disenfranchised young men. Local press informed that in response to the rise in crime, a number of community forums were held throughout 2004 to address the issue. There were also calls from opposition politicians for legislation to deal more firmly with violent crime and for increasing penalties attached to crimes committed against police officers.[24]

43. In late 2004, the first conviction was made under Bermuda's anti-money-laundering legislation. Following the conviction of a bank teller for laundering the proceeds of drug trafficking, the police issued a statement that the conviction was conveying the message that laundering proceeds of crime will not be tolerated.[25]

44. During the course of the year, the Government was forced to address a number of difficult political situations. In 2002, an investigation was launched into allegations of corruption in the Bermuda Housing Corporation managed by the Government, when extraordinary payments to contractors were uncovered. The investigation was concluded in 2004 with only one person charged and no politicians directly implicated. In 2004, the Government also faced difficulties on the Berkeley school project when the legitimacy of some actions related to contractors was questioned.[26]

VII. Relations with international organizations/arrangements

45. As was reported in previous working papers (A/AC.109/2002/15, para. 63, A/AC.109/2003/13, A/AC.109/2004/14, paras. 48 and 49), Bermuda wanted to upgrade its observer status in the Caribbean Community (CARICOM) and become an associate member of the organization. In 2003, the United Kingdom agreed to Bermuda enhancing its membership status, upon the condition that the representative of the Government of Bermuda abstain on any issue under discussion in CARICOM that would have a direct bearing on external relations, defence or security and that Bermuda should disassociate itself from any statement made by the organization on any such matters.[27]

VIII. Future political status of the Territory

46. In January 2005, the Government established the Bermuda Independence Commission. The Commission was set up with the express purpose of educating, informing and encouraging discussion and debate on the subject of independence for Bermuda and must complete its work by July 2005. It was the Government's stated

intention that the Commission be independent of the Government and representative of the wider Bermudian community.[28] The Commission consists of 14 members appointed by the Prime Minister and comprises representatives from unions and organizations, as well as private individuals. The opposition UBP declined formal membership in the Commission. However, two former UBP officials participate in their personal capacities.[29] During its six months work, the Commission will hold public meetings, receive submissions and prepare a report that will assist the Government in developing its approach towards the issue of independence.

47. The mechanism of determining the wishes of the people of Bermuda in relation to independence remains one of the central issues of the debate in the Territory upon which the main political parties are divided. While the PLP considers that the preferable mechanism would be a general election, the opposition UBP holds the position that a referendum is the only appropriate mechanism to determine the preference of the people regarding self-determination.[30] According to press reports, at the sixth Overseas Territories Consultative Council in London in September 2004, the representatives of the Territories asked the United Kingdom's Minister for Overseas Territories whether the United Kingdom was supportive of the Territories exercising their right to self-determination "by election or referendum" and whether either mechanism was "an option or an expectation". The Minister admitted that the United Kingdom had no clear policy on the issue at that time and invited the Territories to submit their written representations on the question so that it could be discussed at the 2005 Overseas Territories Consultative Council meeting.[31]

48. According to press reports, a number of the main issues in the independence debate relate to the way in which a change in Bermuda's sovereign status will affect Bermuda's ongoing relationship with the United Kingdom. Bermuda has strong historical and administrative connections with Britain and, through it, with Europe. At the same time, Bermuda maintains very powerful economic and cultural ties with the United States of America.[32]

49. Another related issue is the United Kingdom citizenship and the accompanying freedom of movement rights in the European Union that were granted to Bermudians through the United Kingdom Overseas Territories Act of 2002. There are sectors of the community who are concerned about how these rights would be affected, should Bermudians choose independence.[33]

50. Two other matters of importance regarding Bermuda's relationship with the United Kingdom that would be affected by the change of status are the issues of defence and security. In relation to Bermuda's protection against foreign aggression, the Deputy Governor of Bermuda stated that "It would be open for any territory to ask the United Kingdom to continue such an defence arrangement, which may have been in place before independence, even for a limited time-scale. The regiment could ask to retain its connection with the Royal Anglia Regiment." A former UBP government position paper on internal security and defence also envisaged a treaty of friendship with either the United Kingdom, Canada or the United States to assist in Bermuda's defence in case of independence.[34]

A. Position of the administering Power

51. In his statement at the 3rd meeting of the Fourth Committee, on 5 October 2004, at the fifty-ninth session of the General Assembly (see A/C.4/59/SR.3), the representative of the United Kingdom said that his country again welcomed the opportunity, as administering Power for 10 of the 16 Territories on the United Nations list of Non-Self-Governing Territories, to update the Committee on developments since it last met.

52. He stated that the partnership between the United Kingdom and its Overseas Territories continued to develop. The sixth annual meeting of the Overseas Territories Consultative Council, which had been chaired by Bill Rammell, Minister for the Overseas Territories, was the forum for dialogue between democratically elected Chief Ministers and their equivalents from the Territories and with United Kingdom Government Ministers. The meeting in 2004 again gave the opportunity for discussion on the relationship between the United Kingdom and the Territories, on constitutional modernization issues, on sustainable development, including good governance and environmental matters and on other issues relating to the United Kingdom's international obligations.

53. The representative stated that Mr. Rammell had made useful visits to two of the Territories, the Falkland Islands (Malvinas) and the British Virgin Islands, over the past year. These had enabled him to meet a range of people in the two Territories and to get a better, first-hand knowledge of them. He had also been able to have discussions on a wide range of issues with elected representatives in their own Territories.

54. The United Kingdom, he pointed out, welcomed the progress that was being made in the constitutional review process. Useful and productive discussions had been held over the past year by United Kingdom officials with representatives of Montserrat, Saint Helena and the Turks and Caicos Islands. In Saint Helena, a draft constitution had been prepared and wider consultation on it was under way. Constitutional reform proposals for Gibraltar had been tabled in December 2003. Dates had not yet been set for formal talks.

55. Conscious of the limited resources in a number of the Territories, the United Kingdom Government was continuing to support projects in various fields to raise local capacity and to promote sustainable development and good governance. Projects ranged from economic diversification to the reform of legislation governing child and family welfare and a study on the alternatives to custodial sentencing.

56. He recalled that in 2003, the representative of the United Kingdom had said that additional funds had been expected to be provided by the Foreign and Commonwealth Office and the Department for International Development to support environment work in the Territories and the implementation of the Environment Charters for the Overseas Territories, signed in 2001. This joint Overseas Territories Environment Programme was funding 23 new projects in 2004 and 2005, of which three were multi-territory initiatives. These included habitat restoration, surveys of natural living resources and capacity-building for both government and civil society institutions.

57. Regrettably, he said, the Caribbean had again suffered badly from hurricanes and in the context of the Territories, he mentioned the devastation caused by

hurricane Ivan to the Cayman Islands, despite good local contingency planning. The United Kingdom had been able to provide some immediate help and other Territories and neighbouring States had also helped. The United Kingdom and the Cayman Islands were very grateful to all for their assistance. Although much remained to be done, encouraging steps were being taken to enable the Territory to return to normality. The Turks and Caicos Islands also had suffered quite extensive damage in part of the Territory a few weeks earlier.

58. The representative of the United Kingdom mentioned that, in response to requests from some Overseas Territories for help in accessing European Commission economic, trade and development assistance, an official with responsibility for liaising with the Commission had been appointed last year to the Foreign and Commonwealth Office's Overseas Territories Department. He continued to work with several of the Territories in identifying and pursuing Commission development aid as provided for under the European Union-Overseas Countries and Territories Overseas Association Decision of November 2001.

59. The representative said that the United Kingdom continued its informal cooperation with the Special Committee of 24. The most recent involvement had been when a representative of the United Kingdom had attended and presented a paper on constitutional developments in the United Kingdom Territories at the Special Committee of 24 seminar in Papua New Guinea in May 2004. He stated that perhaps the most positive recent development was the proposal for a visit to Bermuda with a view to considering movement towards that Territory's delisting. He concluded by saying that the secretariat was in touch directly with Bermuda on preparing for this.

B. Consideration by the United Nations

60. On 10 December 2004, the General Assembly adopted resolutions 59/134 A and B without a vote; section III of resolution 59/134 B is specifically devoted to Bermuda.

Notes

[1] The information contained in the present working paper has been derived from published sources, including Internet sites.

[2] *The Royal Gazette*, 12 October 2002.

[3] http://www.ubp.bm/news.

[4] *Caribbean Net News*, 2 March 2004, http://www.caribbeannetnews.com.

[5] *Economist Intelligence Unit ViewsWire*, 19 May 2004, "Bermuda finance: Government to seek debt refinancing", http://www.viewswire.com.

[6] http://www.cia.gov/cia/publications/factbook/geos/bd.html.

[7] http://www.iif.edu/academicresources/cls/20040129cls001.htm.

[8] *The Royal Gazette*, 5 November 2004 and 13 January 2005; *Economist Intelligence Unit ViewsWire*, 16 November 2004, http://www.viewswire.com.

[9] *Bermuda Sun*, 20 February 2004.

[10] http://www.eiu.com; http://www.bankofbermuda.com; *The Independent*, 29 October 2003; *South China Morning Post*, 3 November 2003; *International Money Marketing*, November 2003; *Financial Times*, 9 March 2004.

[11] *Bermuda Sun*, 20 February 2004.

[12] *The Royal Gazette*, 5 July 2004.

[13] *World Travel and Tourism Council*, 2004.

[14] *BBC Monitoring Americas*, 25 January 2005.

[15] *Economist Intelligence Unit ViewsWire*, 15 December 2004.

[16] *Travel and Tourism Economic Research*, 2004.

[17] *The Royal Gazette*, 22 December 2004.

[18] *The Royal Gazette*, 4 June, 26 October 2004.

[19] *Bermuda Sun*, 20 February 2004.

[20] *The Royal Gazette*, 26 October 2004.

[21] *Bermuda Sun*, 20 February 2004.

[22] *Ministry of Education and Development*, 2004, "Initiatives 1998-2004", *The Royal Gazette*, 31 May and 9 July 2004; *Financial Times*, 9 March 2004.

[23] *BBC Monitoring Americas*, 30 November 2004.

[24] *The Royal Gazette*, 26 April, 19 June and 5 November 2004.

[25] *BBC Monitoring Americas*, 8 December 2004.

[26] *The Royal Gazette*, 27 August, 11 October 2004 and 2 January 2005.

[27] *The Royal Gazette*, 2 April, 1 and 3 June 2004; *BBC Monitoring Americas*, 17 March 2004.

[28] http://www.pip.bm, 10 December 2004.

[29] *Bermuda Sun*, 17 December 2004, A Country Divided.

[30] *The Royal Gazette*, 3 March 2004; www.bbc.co.uk/caribbean/news, 22 December 2004.

[31] *The Royal Gazette*, 24 and 27 September, 1 October 2004.

[32] *The Royal Gazette*, 9 July 2004.

[33] *The Royal Gazette*, 26 October 2004.

[34] *The Royal Gazette*, 6 July 2004.

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Cayman Islands

Working paper prepared by the Secretariat

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I. General

1. The Territory of the Cayman Islands[1] is located some 180 miles west of Jamaica and about the same distance south of Cuba. It comprises three islands: Grand Cayman (76 square miles), Cayman Brac (15 square miles) and the adjacent and largely undeveloped Little Cayman (11 square miles).

2. According to the Economics and Statistics Office of the Cayman Islands, the population of the Territory in 2003 was 44,144, which is an increase from 43,004 in 2002.[2] An estimated 25 per cent are of African descent, 20 per cent are of European descent and the remainder are mixed.

II. Constitutional, legal and political issues

3. The Cayman Islands is a Non-Self-Governing Territory (Overseas Territory) under the administration of the United Kingdom of Great Britain and Northern Ireland. The Constitution of 1959 was revised in 1972, 1992 and 1994. Under the Constitution, the Governor, who is appointed for four years by the British monarch, is responsible for external affairs, defence, internal security and the public service. The Governor is the Chairman of the Executive Council, which comprises three members appointed by the Governor, namely the Chief Secretary (until 1992, the Administrative Secretary), the Financial Secretary and the Attorney General, and five members elected by the Legislative Assembly. The Executive Council is responsible for the administration of government. The Governor assigns ministerial portfolios to the elected members of the Executive Council. The Legislative Assembly comprises three official members designated in the Constitution and 15 members elected by universal adult suffrage for a period of four years. Since 1991, a Speaker is elected to preside over the Assembly.

4. The Governor of the Cayman Islands, Bruce Dinwiddy, was appointed in May 2002.

5. Until 2000 there were no formal political parties in the Territory and the following loose groupings acted as political organizations: National Team, Democratic Alliance and Team Cayman (see A/AC.109/2003/9, paras. 7-8). Following the defeat of the National Team in the general elections held in 2000, a majority of the Legislative Assembly members formed a political party, the United Democratic Party (UDP), on 5 November 2001. The opposition formed a second party, the People's Progressive Movement (PPM) in 2002. Mr. McKeeva Bush of UDP became the Leader of Government Business.

6. The judicial system is based on British common law, certain British statutes and local statute law. There is the Grand Court (with Supreme Court status) and the Summary Court, which includes criminal, civil, family, youth and coroner's court. Appeals lie with the Court of Appeal of the Cayman Islands and, beyond that, with the Privy Council in London.

7. As was reported in previous working papers (A/AC.109/2002/7, paras. 11-14; A/AC.109/2003/9, paras. 10-19; and A/AC.109/2004/15, paras. 8-12), the constitutional review process in the Territory continued with issues related to the electoral law, and in particular to the electoral districts, being at the heart of the discussion. Recommendations of the Boundary Commission on the mapping of

electoral districts that were passed by the Legislative Assembly of the Cayman Islands in December 2003 have not yet been approved by the United Kingdom.

8. In July 2004, the Elections Law (2004 Revision) was enacted. The law modernizes the Cayman Islands election system, but does not include any significant amendments relating to electoral districts. The Act contains new provisions for the registration of political parties and makes revisions to the election expenses laws. The Act also contains provisions relating to the registration of voters, requiring Caymanian citizens to register to vote, as well as provisions concerning practical arrangements for elections, political broadcasting, the publication of statistical information, election petitions and election offences.[3]

9. The Territory's general election was due to be held in November 2004; however, it was postponed until May 2005 following the devastation caused by Hurricane Ivan in September 2004. The election in 2005 will be the first election to be contested by political parties following a 2004 revision of the election laws.

10. The British Overseas Territories Act that came into force in 2002 (A/AC.109/2002/2/Add.1) grants the right to full British citizenship to all inhabitants of the Territories and formally abolishes the term "colony" and "dependent territory" in favour of "Overseas Territories". That law allows the Cayman Islanders to hold British passports and work anywhere in the European Union.

11. In July 2004, the United Kingdom Privy Council enacted an amendment to the Constitution of the Cayman Islands designed to correct an anomaly created by the British Overseas Territory Act 2002, which would have disqualified eligible people holding both British Overseas Territories citizenship and British citizenship from standing for election in the Cayman Islands.[4]

III. Budget

12. As was reported in last year's working paper (A/AC.109/2004/15, paras. 13-19), in 2003 the Financial Secretary announced major reforms, which included a number of changes in the budgetary process. Following the reform, the new 2004/2005 budget was prepared for the first time on an accrual rather than on a cash basis.

13. As the 2004/05 budget presented by the Financial Secretary in May 2004 was prepared prior to Hurricane Ivan striking the Cayman Islands in September 2004, the projected figures as presented in May 2004 have changed significantly due to the immediate and ongoing effects of that natural disaster.

14. Within the framework of reform, the budgetary policy of requiring statutory authorities and government companies to comply with the same fiscal discipline as ministries continued. The "payment on delivery" concept that was introduced in July 2004 means that ministries and programmes no longer receive automatic funding. Under the new policy, before ministries and programmes receive funding from the Cabinet, they must demonstrate that they have delivered their agreed outputs or services.[5] The legislation implementing the same concept for the civil service, which is due to come into effect in July 2005, gives the civil service one year to implement and develop the performance management system before it becomes mandatory.[6]

15. The Government forecast revenues for 2004/05 of $338.2 million, which represents a rise in revenues from US$ 309.4 million in the 2003/2004 period. Operating expenses are forecast to be $328.2 million. The net surplus is forecast to be $473,000. As a result of the move to accruals, the fiscal forecasts include a balance sheet for the first time and show a forecast net worth position for the Government at the end of the 2004/05 period of $366.4 million. This figure is made up of forecast assets of $716.7 million, less forecast liabilities of $350.3 million. While asset category includes property, such as Crown land, roads, buildings and the government investment in statutory authorities and government companies, the liabilities consist mainly of borrowings and unfunded pension liability.[7]

IV. Hurricane

16. In September 2004, the Cayman Islands were struck by Hurricane Ivan, one of the worst storms to hit the Caribbean in a decade. The storm caused extensive damage to housing and the infrastructure of the Territory. Power and water supplies were cut, telecommunications were down, thousands of people were left homeless and two islanders were killed.

17. Approximately 83 per cent of the housing in Grand Cayman suffered some degree of damage. The health and education sectors sustained financial damage of 19 million and 44.8 million Cayman Islands dollars (C$), respectively.[8] In the tourism industry, losses occurred in both the stay-over visitors and cruise ship sectors. The loss in stay-over tourism for 2004 amounted to C$ 72 million and has been forecast to amount to a further loss of C$ 82.8 million in 2005. The loss of revenue from cruise ship activity was estimated at C$ 25 million. It was estimated that 90 to 95 per cent of crops were destroyed in Grand Cayman. Damage from losses in the agricultural sector, including livestock and fisheries, was estimated at C$ 5.6 million. The total impact on the infrastructure sector was estimated at C$ 407 million, of which 70 per cent was direct damage to assets and the remaining 30 per cent was losses of revenue and increased operational costs. Insurance proceeds of C$ 274 million were expected across the infrastructure sector.

18. According to government sources, hurricane preparedness measures have paid off. In May 2004, the Public Works Department had carried out its annual hurricane preparedness exercise, and due to stringent building codes in the Cayman Islands, the infrastructure stood up to the storm. However, according to an official government report prepared in conjunction with the Economic Commission for Latin America and the Caribbean (ECLAC) and the United Nations Development Programme (UNDP), although the national hurricane committee was well prepared with designated shelters, shelter wardens assigned and a basic stock of supplies in place, "nothing could have prepared the population for the hurricane force winds of 155-200 mph and the eight foot rise in sea level which devastated everything in its path".[9] The impact of Hurricane Ivan on sectors of the economy is described in the respective chapters below.

V. Economic conditions

A. General

19. The Cayman Islands has one of the highest standards of living in the Caribbean. The economy is based on tourism and on the Islands' status since 1966 as an international offshore finance centre. The principal sources of government revenue are import duties, company, bank and trust licence fees, and stamp duties. There is no income tax, company tax or excise duty. Although imports outstrip exports by about 100 to 1, the visible trade gap is more than offset by invisible earnings from the tourism and financial services sectors.

20. According to the United Kingdom Foreign and Commonwealth Office, the gross domestic product (GDP) per capita is $36,271, the annual growth rate is 3 per cent and the annual inflation rate is 1.9 per cent. The Cayman Islands' major trading partners are the United States of America, the United Kingdom and the Caribbean Community.[16]

21. As was reported in previous working papers (A/AC.109/2003/9, paras. 23-29, and A/AC.109/2004/15, para. 23), in 2002 the Government of the Cayman Islands adopted a comprehensive plan entitled "The Cayman Islands: a centre of excellence for the twenty-first century" (2003-2005), and aims to refocus the economy and maintain a responsive institutional and legislative framework for such important areas as tourism, e-business, marketing and incentives. During 2004, the Government continued the implementation of its financial management reform initiatives and strategic objectives of the plan. According to the Financial Secretary, in 2003 the Cayman Islands experienced higher economic growth, lower unemployment and lower inflation than in 2002. The real GDP growth rose from 1.7 per cent in 2002 to 2 per cent in 2003. The unemployment rate decreased from 7.5 per cent in 2001 to 3.6 per cent in 2003. The economic recovery was expected to continue in 2004/2005.[17]

22. As reported above (see paras. 17-19), the effects of Hurricane Ivan, which hit the Territory in September 2004, were widespread across the economy. As a result, in late 2004 the Government was faced with a revenue shortage following a lack of receipt of duties on petrol and diesel following the drop in the demand for fuel due to the number of cars destroyed in the hurricane.[17]

B. Agriculture, livestock and fisheries

23. Agricultural activities, although limited by infertile soil, low rainfall and high labour costs, have nearly doubled over the past five or six years, with 10 large farms totalling over 100 acres. Agricultural products include bananas, tomatoes, lettuce, honey, mangoes, citrus fruits, various vegetables and coconuts. Livestock rearing consists of beef cattle, poultry and pigs. Agriculture constitutes 1.4 per cent of the total GDP.

C. Tourism

24. The tourism sector accounts for approximately 50 per cent of the Cayman Islands GDP and 27 per cent of employment in the Territory, and accrues revenue of C$ 30.7 million to government and statutory bodies.[13]

25. During the first half of 2004, the sector performed well, with air arrivals increasing to 181,254, indicating a 12.7 per cent increase from the same period in 2003. Cruise ship arrivals accounted for 1.1 million visitors in the first half of 2004, which was more than the total number of cruise arrivals in 2000. The above figures, which reflect expectations for the performance of the sector over the second half of 2004, were estimated before Hurricane Ivan.[14]

26. In the Throne speech delivered in July 2004, the Governor announced that in 2004/2005, Cayman Airways intended to introduce a second Boeing 737-300 into the fleet. In line with the Government's commitment to further increasing air arrivals by maintaining low fares and adding flights to existing and new destinations, the addition of the new aircraft will allow the airline to launch direct service to Boston, United States of America.[15]

27. The tourism sector sustained major losses due to Hurricane Ivan. The hurricane caused severe damage to properties through flooding and winds. Following the hurricane, the Government imposed travel restrictions to the Cayman Islands. Tourism activities ceased immediately following the hurricane and did not resume until mid-November 2004 (see also paras. 17-19 above).

28. The aftermath of the hurricane revealed that while major hotels had sufficient business insurance, few condominiums, apartments and guest houses had adequate insurance coverage. The ECLAC/UNDP report noted that although capacity constraints can often be followed by stagnation or a drop in tourism demand, such a drop in demand could be offset with an increased effort to implement the national tourism management plan and could actually lead to an improvement in the typical low occupancy rates that have, in the past, characterized the Cayman Islands tourism sector.[16]

D. Financial services

29. The Cayman Islands remain among the top international financial centres (see A/AC.109/2003/9, paras. 41-50, and A/AC.109/2004/15, paras. 32-35). Along with tourism, the finance sector is one of the main pillars of the Cayman Islands economy. According to the Financial Secretary, in 2003 the sector demonstrated considerable growth. The total number of insurance licences in the Territory rose to 672, hedge fund registrations grew to 4,808 and stock listings increased to 735. Between 2002 and 2003, market capitalization rose by a healthy 20.9 per cent to US$ 43.9 billion. External assets of banks stood at $1.02 trillion in June 2003, up by $4.6 billion from the December 2002 position. Premiums for captives grew by $700 million in 2003 to $4.9 billion. With over half of the world's hedge funds registered in the Cayman Islands, the Territory remained the leader in this segment of the global financial market in 2003. Total company registrations increased to 68,078 in 2003, or by 2,819.

30. In contrast, there was a decline in the number of bank and trusts registered in the Cayman Islands in 2003 resulting from consolidations within the banking industry and the cost implications of establishing a physical presence in the Territory as required by law.[17]

31. The Cayman Islands Monetary Authority, a statutory authority, is the primary financial services supervisory and regulatory body in the Territory. In June 2004, the Authority announced that it expected to generate a surplus of approximately C$ 35 million for the Government through the 2004/2005 fiscal year.[18]

32. The European Union Savings Tax Directive, which requires disclosure of financial information in relation to European Union (EU) depositors or the imposition of withholding tax on bank interest paid to EU citizens, continued to be a difficult issue in the Cayman Islands in 2004. As noted in last year's working paper (A/AC.109/2004/15, para. 34) the Government of the Cayman Islands exerted considerable effort to resist the directive and agreed to implementation only upon obtaining from the United Kingdom certain undertakings to help safeguard the Cayman Islands economy. At the end of 2003, the British Government issued an ultimatum to the Territory to adopt the new directive by 20 February 2004 or face its imposition by the order in council. On 13 February 2004, the Territorial Government recommended the adoption of the directive to the Legislative Assembly. The opposition party, PPM, abstained from the vote and the directive was adopted. Implementation of the directive was scheduled for the beginning of 2005, but has been delayed due to non-compliance of other parties to the agreement.[19]

33. The issues related to the coming into force of the Savings Tax Directive were thoroughly discussed by the Governments of the Cayman Islands and the United Kingdom. The United Kingdom eventually offered the Cayman Islands tax concessions to counter fears within the Territory that the implementation of the directive would destroy its financial services industry. In recognition of the challenge which the directive presents to Territories with significant financial services sectors, the Foreign Office of the United Kingdom has appointed a dedicated officer to assist the Territories to apply for aid from the European Union with the view to improve economic development, and with a particular focus on the tourism infrastructure.[20]

34. According to the ECLAC/UNDP report, although the financial services infrastructure was badly damaged by Hurricane Ivan and the sector could not operate out of the Cayman Islands while communications were down, the sector was able to provide uninterrupted services by placing staff abroad in an efficient and immediate manner. However, the report indicated that it was not possible to assess the increased operating costs incurred through travel, relocation and the use of alternative communications and utilities. The quick response and immediate recovery of the sector, crucial to maintaining the financial centre's lead in the international market, was attested to by the fact that even during September, company registrations increased.[21]

E. Infrastructure and transport

35. The road network of the Cayman Islands comprises approximately 225 kms of roadways, of which approximately 145 are primary and secondary roads with hot-

mixed asphalt surface, and approximately 80 are local and other minor streets with oilspray and chip surface.

36. The road network suffered extensive damage due to the hurricane. In some areas along the coast, entire sectors of the road were washed away by the storm.

37. There were approximately 34,500 motor vehicles in the Cayman Islands immediately before Hurricane Ivan struck in September 2004. According to the ECLAC/UNDP report, nearly one out of five private motor vehicles was rendered useless by the storm because of fallen trees and seawater and sand affecting their electrical components. The total losses sustained by the transport sector amount to C$ 194.9 million, of which 75 per cent was destruction of assets and 25 per cent due to increased operating costs. The report reveals that imports of vehicles, machinery and materials amounting to C$ 143 million will have to be made to restore the assets, but that about C$ 100 million in reinsurance proceeds may be received once the claims are processed and reimbursed.

38. The National Roads Authority Law (2004) was passed in June 2004. The Law sets up the new Authority, which has the responsibility of ensuring effective and efficient management of all public roads, including planning, design construction and management.[27]

39. As was reported in last year's working paper (A/AC.109/2004/15, para. 44), in an effort to create the appropriate infrastructure for the overall economic development of the Territory, the Government formed a Committee in 2003 to focus on the transportation system the 2025 National Road Plan.[27]

40. International air services are provided between Grand Cayman and the United States, Canada, Europe, Jamaica, Honduras and Cuba through more than 108 flights per week. Major United States and British airlines operate regularly to and from the Cayman Islands. Domestic airline services and charters operate between the sister islands of the Cayman Islands. The discussions about relocation of the airport at the beginning of 2004 became overshadowed by the hurricane in September.[28] Construction of an airport in Little Cayman began in 2004.

41. Hurricane damage sustained by the airport buildings infrastructure was estimated at C$ 1.1 million, and damage to associated air traffic buildings was estimated at C$ 4.2 million. The international airport was closed for two days during the hurricane. Temporary travel restrictions were imposed by the Government until November 2004 disallowing travel into the country by non-residents, excluding those involved with relief efforts.

42. The Airports Authority Law and the Civil Aviation Authority Law were both passed in June 2004. The laws divide the provision of air transport facilities and the regulation of their use.[29]

43. The port of George Town is the main gateway for cruise ships that carry tourists to the islands. The Cayman Islands are served by scheduled passenger liners and a number of locally owned or registered vessels that provide cargo services between the Cayman Islands and Miami, Tampa and Jamaica. In 2003, the port facilities in George Town supported 1,152 port calls made by 288 cargo ships, 852 cruise ships, 35 tankers and 4 government vessels. During that period, 1.6 million cruise ship visitors landed at the port. In March 2004, the Cayman Islands Port

Authority signed a loan agreement to fund the construction of the Royal Walter and the West Bay cruise terminals.[26]

44. According to the ECLAC/UNDP report, the existing port facilities suffered significant damage in the hurricane with the total impact estimated at C$ 3 million.[27]

F. Communications

45. The Territory's continuing development as a leading international business centre is dependent on modern and reliable telecommunications and utility services. Until recently, Cable and Wireless was the exclusive provider of telecommunications services in the Cayman Islands. As was reported previously (A/AC.109/2003/9, paras. 51-53, and A/AC.109/2004/15, paras. 36-38), in mid-2003, the Government introduced competition into the telecommunications sector with the intention of its complete liberalization by April 2004. Since then, several telecommunications operations and infrastructure providers have entered the market, and Cayman Islands consumers have benefited from the resulting drop in the cost of services. At the same time, in 2004 Cable and Wireless filed an appeal against a ruling by the telecommunications industry regulator (the Information and Communications Technology Authority) that its pricing was anti-competitive by being too low and the Authority requirement that the company should raise some of its prices.[28]

46. As noted in paragraphs 29 to 34 above, the telecommunications sector was badly affected by the hurricane. The damage included flooding of telephone exchanges and underground and submarine fibre-optic cables and the collapse of three major telecommunications towers. At the same time, the continuation of some services throughout the storm and the fast recovery of basic services was evidence of the strength and quality of the services provided in the Cayman Islands. In order to expedite the resumption of services, some companies flew in portable generators.

47. The ECLAC/UNDP report estimates that the loss sustained by the telecommunications sector amounted to approximately C$ 79.5 million, of which 60 per cent was damage to assets and 40 per cent business losses. It is estimated that imports costing approximately C$ 40 million will have to be made to replace destroyed and damaged equipment; however, insurance proceeds are expected to amount to approximately C$ 69.2 million.[29]

48. In relation to the provision of utilities (A/AC.109/2004/15, para. 38), the Government reached an agreement with the Caribbean Utilities Company in June 2004 that will allow for the introduction of competition into the electricity industry while also granting the Caribbean Utilities Company a licence to operate in the Cayman Islands until 2024. The agreement contained a 4.7 per cent decrease in residential electricity rates from 1 October 2004.[30]

49. Hurricane damage was sustained by electricity installations, as well as transmission lines and distribution grids. Recovery was aided by the subregional Hurricane Action Plan, which included the assistance of teams from electrical enterprises in Barbados, Belize, Bermuda and the Turks and Caicos Islands. The total impact of the hurricane on the electrical sector of the Cayman Islands has been estimated at C$ 68.9 million, of which 41 per cent was damage to assets and

59 per cent was business losses. It is expected that imports amounting to C$ 22.6 million will be needed to aid recovery, however this will be offset by estimated reinsurance proceeds of C$ 48.5 million.[31]

VI. Social conditions

A. Human rights and immigration

50. The Territory is subject to several major human rights conventions to which the administering Power has acceded, including the European Convention on Human Rights, although the right of individual petition to the European Court of Human Rights does not extend to the Cayman Islands, at the request of the Cayman Islands Government. The Cayman Islands is the only United Kingdom Territory without a bill of rights (see A/AC.109/2002/7, para. 49, A/AC.109/2003/9, paras. 61-63 and A/AC.109/2004/15, para. 45). The draft Constitution presented for approval by the United Kingdom in 2003 includes a bill of rights, which will be scheduled for implementation when the appropriate legislation is in place. Media reports have noted that the absence of constitutional protection of fundamental rights is a matter of concern to the Government of the United Kingdom.[32]

51. In January 2004, the Immigration Law (2003) took effect. The new immigration law instituted a number of changes, including new requirements for people wishing to visit, reside, work, conduct business or study in the Cayman Islands.[33]

B. Labour

52. According to the labour force survey released in November 2004, the labour force of the Territory comprised 23,453 people compared with 29,905 in 2003. The decline in the labour force is attributed to Hurricane Ivan. Compared with the figures accumulated in spring 2004, the post-Ivan figures represented a drop of 5,715, or 20 per cent. The number of working Caymanians in November 2004 was 11,444, while the number of non-Caymanians in the workforce was 10,976. In 2004, the unemployment rate was 4.4 per cent, compared with 3.6 per cent in 2003. The workforce includes nationals of 78 countries, with the greatest portion coming from Jamaica, the United States, Canada and the United Kingdom.[34]

53. The new Immigration Law (2003) that took effect in 2004 limits foreign workers in the Territory to a stay of between six months and seven years, depending on the category of employment. According to the supporters of the new law, the aim of the law is to stop foreign workers who enter the Territory with a one- or two-year work permit from staying for a "long or indefinite time". They consider that the limitation will be especially beneficial for young local lawyers seeking to enter the profession, as it will reduce competition from the outside, although some exemptions from the seven-year limit for foreign lawyers exist.[35]

C. Education

54. Education is compulsory for all resident children who are between 4 years, 9 months, and 16 years of age. The Government is directly responsible for education within that age group. Two public institutions and one private school provide tertiary education. The Community College of the Cayman Islands is owned by the Government but is independently administered. The Cayman Islands Law School is also Government-owned, while the College of the Cayman Islands is private.

55. The public education system caters to about two thirds of Caymanian children, with the remainder attending fee-paying schools. The Government operates six primary schools, one middle school, two high schools and one alternative education centre on Grand Cayman, as well as three primary schools and one high school, which incorporates the middle school, on Cayman Brac. Tuition is free for Caymanians at those schools, but an annual book rental fee of 100 to 150 Cayman Islands dollars per student is charged. In addition, 10 private schools provide primary and/or secondary education. All private schools are monitored by the Education Department and receive grants from the Government.

56. As was reported in the previous working paper, the improvement of the standard of education was one of the Government's key policy initiatives for 2003/04. According to the strategic policy statement for the financial year 2003/04, the Government had planned to implement measures to ensure that 95 per cent of school leavers meet expected educational standards, that 90 per cent of all adults had basic language and numerical skills and that the number of adults undertaking vocational training had increased.

57. In the 2004 Throne speech, the Governor indicated that the Ministry of Education intended to introduce a comprehensive and modern Education and Training Law. The Ministry aimed to present the Education and Training Bill to the House in September 2005. In 2004, the Ministry also sought to build on its work in the improvement of the educational system through the continued implementation of the Improving Teaching and Learning in the Cayman Islands programme and the development of an educational strategy for technical and vocational education at the secondary and post-secondary levels, among other initiatives.[37]

58. In order to increase the capacity of government schools, a new primary school opened in 2004 and another is scheduled to open in September 2005. The further redevelopment of the Georgetown Primary School and the purchase of land and the design for a new high school is planned for delivery in September 2006. Plans for the construction of new pre-tertiary schools were also released during 2004. Unfortunately, progress on many of these initiatives was and will be delayed to varying degrees because of the damage caused to the existing educational infrastructure by Hurricane Ivan.[37]

59. Hurricane Ivan hit only a week and a half into the new school term. Several schools had recently undergone refurbishment for the new term and new books and uniforms had been purchased. As in many Caribbean nations, many of the buildings used as shelter from the hurricane were schools. All schools suffered some degree of damage from the storm, with the only two public secondary schools and one of the largest primary schools sustaining major damage. The financial damage to the sector amounted to C$ 44.8 million and 25 to 40 school days per student were lost.[38]

D. Public health

60. The Health Services Department is responsible for the provision of all government health care, including public health services. In addition to general medical care, a wide range of specialist services are available locally. According to the administering Power, contraceptive services are provided free of charge, in addition to free antenatal service, which is already being provided for all residents irrespective of nationality. The Health Practitioners Board has responsibility for the registration of private practitioners. There is a 124-bed hospital in George Town. The facility includes a state-of-the-art, fully staffed accident and emergency room. There is also an 18-bed hospital on Cayman Brac and several district health centres and clinics. In 2000, there were 84 registered doctors and 14 dentists in the Cayman Islands.

61. In 2004, the Health Insurance (Amendment) Law was passed. Health insurance is compulsory in the Cayman Islands. The new Law restricts the issue of health insurance contracts to "approved insurers" licensed to do business in the Cayman Islands.[39]

62. Compared to the education and housing sectors, the health sector suffered the least damage from the hurricane. The damage to the health sector was estimated at C$ 19 million, of which direct damage to facilities and equipment amounted to 51 per cent and 49 per cent to indirect losses, including cleaning and the removal of debris, additional cost of staff services, losses due to the use of the facilities as shelters, additional public health services and losses due to lost income.[40]

E. Crime and public safety

63. The Royal Cayman Islands Police Force comprises 295 officers and 40 support staff. It has a shortfall of Caymanian recruits and has officers seconded by the United Kingdom. Officers are also recruited from Jamaica, Belize, Barbados, Canada, Nicaragua, Trinidad and Tobago, Honduras, the Bahamas, Nigeria and the United States.

64. The strategic policy statement for the financial year 2003/04 outlines the following specific goals to ensure the safety and security of the Cayman Islands: an efficient and fair legal and judicial system; reduction in the levels of petty and serious crime; reduction in the rate of reoffending by convicted offenders; secure and humane custody of offenders with custodial sentences; and maintenance of appropriate border security and protection.

65. According to press reports, the number of crimes in the Territory increased during 2004. There was an 11.7 per cent increase in burglaries in the first half of 2004. The police attributed many of these burglaries to premises not being properly secured and appealed to both domestic and commercial owners to secure their properties.[41]

VII. Relations with international organizations

66. The Cayman Islands, which had been an observer with the Caribbean Community, was approved for associate member status in February 2002 (see A/AC.109/2002/7, paras. 75 and 76).

VIII. Future political status of the Territory

67. As was reported in last year's working paper, the issues of contention between the Territory and the United Kingdom with respect to future political status relate to some of the provisions in the Constitution, the degree of self-government and control over local affairs by elected officials, the role of the Governor, the impact of compliance by the Territory with the United Kingdom's international obligations, and the participation of the Territory in those international affairs that affect its interests.

68. During the period under review, the proposed constitutional changes continued to be discussed by the two major political parties. These issues include the following: the powers of the Governor and his ability to override democratically elected leaders; cessation of the Governor's complete control over any area of domestic affairs, such as financial services; making the leader of Government Business preside over the governing council in place of the Governor; increasing the legislature to 17 members elected from single member constituencies; creation of a Senate consisting of appointed members; changing the composition of the Cabinet to comprise seven elected members, moving to full ministerial government with the Governor appointing a Chief Minister and other Ministers on the advice of the Chief Minister; protection of the rights of the minority in the Legislative Assembly; inclusion of a Bill of Rights in the Constitution; provision for a citizen-initiated referendum and cessation of the United Kingdom's ability to legislate for the Cayman Islands, as well as to bind the Territory to agreements arising from the United Kingdom's obligations to the European Union.[42]

69. In his 2004 Throne speech, the Governor of the Territory stated that he believed it to be in the common interest of the United Kingdom and the Cayman Islands to continue to work towards constitutional reform. He expressed the hope that the issue of constitutional reform would be comprehensively debated during the upcoming election campaign and that the opportunity would be taken to "ascertain more clearly what proposals the electorate would like the new Government to make to London next year".[43]

70. Addressing the European Parliament in July 2004, the leader for Government Business stated that it was the goal of his Government to achieve full internal governance for the Cayman Islands. He noted that "whilst there is no desire to seek independence at this time, the Overseas Territories do want greater rights for self-determination".[44]

71. Another issue raised by the leader for Government Business was the lack of consultation by the United Kingdom with the Territories during negotiations on international agreements that affect the Territories. Speaking to the European Parliament, he voiced his Government's objections to the way in which the British Government approaches the application of international treaties to its Territories. However, he was pleased to note that in the 2004 Annual Report of the United

Kingdom Foreign Office, United Kingdom Ministers were encouraged to consult relevant Territories prior to agreeing to international agreements that will affect them. This issue was brought into focus following the negotiations on and the implementation of the European Union Savings Tax Directive, which significantly affects the Cayman Islands, but upon which the Cayman Islands Government was not consulted. The desire of the Government of the Cayman Islands for freedom from European Union directives is now an issue in the constitutional debate.[45]

72. In order to reach a common position on certain items that were to be brought before the 2004 Overseas Territories Consultative Council in August 2004, the Caribbean and Bermuda Territories held a Chief Ministers Conference in the Cayman Islands. During the Conference, issues of sovereignty and constitutional reform were discussed. In a joint statement, the Chief Ministers stated, "we have agreed on a common voice regarding our approach to constitutional progress in our territories. While acknowledging the fact that we each are at a different stage of constitutional reform, we nevertheless feel we have much to gain from collaboration in this regard." According to the media reports, the Chief Ministers were considering jointly employing constitutional experts. Other issues discussed during the Conference included: relations between the Territories and the United Kingdom; the role and development of the Overseas Territories Consultative Council; the development of a collective approach by the Territories to issues of common interest; security and terrorism issues; the environment, and in particular climate change; and the challenges posed to the region by HIV/AIDS.[46]

IX. Position of the administering Power

73. In his statement at the third meeting of the Fourth Committee, on 5 October 2004 (see A/C.4/59/SR.3), the representative of the United Kingdom said that the United Kingdom again welcomed the opportunity, as administering Power for 10 of the 16 Territories on the United Nations list of Non-Self-Governing Territories, to update the Committee on developments since it had last met.

74. He stated that the partnership between the United Kingdom and its Overseas Territories had continued to develop. The sixth annual meeting of the Overseas Territories Consultative Council had been held in London in September 2004. The Council, which had been chaired by Bill Rammell, MP, Minister for the Overseas Territories, was the forum for dialogue between democratically elected Chief Ministers and their counterparts from the Territories and with United Kingdom Government Ministers. The meeting in 2004 again gave the opportunity for discussion on the relationship between the United Kingdom and the Territories, on constitutional modernization issues, on sustainable development, including good governance and environmental matters, and on other issues relating to the United Kingdom's international obligations.

75. The representative stated that Mr. Rammell had made useful visits to two of the Territories, the Falkland Islands (Malvinas) and the British Virgin Islands, over the past year. Those visits had enabled him to meet a range of people in the two territories and to get a better, first-hand, knowledge of them. He had also been able to have discussions on a wide range of issues with elected representatives in their own territories.

76. The United Kingdom, he pointed out, welcomed the progress that was being made in the constitutional review process. Useful and productive discussions had been held over the past year by United Kingdom officials with representatives of Montserrat, St. Helena and the Turks and Caicos Islands. In St. Helena, a draft Constitution had been prepared and wider consultation on it was under way. Constitutional reform proposals for Gibraltar had been tabled in December 2003. Dates had not yet been set for formal talks.

77. Conscious that resources were limited in a number of the territories, the Government of the United Kingdom was continuing to support projects in various fields to raise local capacity and to promote sustainable development and good governance. Projects ranged from economic diversification to the reform of legislation governing child and family welfare to a study on the alternatives to custodial sentencing.

78. He recalled that in 2003, the representative of the United Kingdom had said that additional funds had been expected to be provided by the Foreign and Commonwealth Office and the Department for International Development to support environmental work in the Territories and the implementation of the Environment Charters for the Overseas Territories signed in 2001. This joint Overseas Territories Environment Programme was funding 23 new projects in 2004 and 2005, of which three were multiterritory initiatives. These included habitat restoration, surveys of natural living resources and capacity-building for both government and civil society institutions.

79. Regrettably, he said, the Caribbean had again suffered badly from hurricanes and in the context of the Territories, he mentioned the devastation caused by Hurricane Ivan to the Cayman Islands, despite good local contingency planning. The United Kingdom had been able to provide some immediate help and other Territories and neighbouring States had also helped. The United Kingdom and the Cayman Islands were very grateful to all for their assistance. Although much remained to be done, encouraging steps were being taken to enable the Territory to return to normality. The Turks and Caicos Islands also had suffered quite extensive damage in part of the Territory a few weeks earlier.

80. The United Kingdom representative mentioned that in response to requests from some Overseas Territories for help in accessing European Commission economic, trade and development assistance, an official with responsibility for liaising with the Commission had been appointed last year to the Foreign and Commonwealth Office's Overseas Territories Department. He continued to work with several of the Territories in identifying and pursuing Commission development aid as provided for under the European Union-Overseas Countries and Territories Overseas Association Decision of November 2001.

81. The representative said that the United Kingdom continued its informal cooperation with the Special Committee of 24. The most recent involvement had been when a United Kingdom representative had attended and presented a paper on constitutional developments in the United Kingdom Territories at the Special Committee of 24 seminar in Papua New Guinea in May 2004. He stated that perhaps the most positive recent development was the proposal for a visit to Bermuda with a view to considering movement towards that Territory's delisting. He concluded by saying that the Secretariat was in touch directly with Bermuda on preparing for this.

X. Consideration by the General Assembly

82. On 10 December 2004, the General Assembly adopted resolution 59/134 A and B without a vote. Section V of resolution 59/134 B is devoted to the Cayman Islands.

Notes

[1] The present working paper is based on information provided by the administering Power under Article 73 *e* of the Charter of the United Nations, as well as from published sources.

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[9] Cayman Islands Government, ECLAC/UNDP report, 10 January 2005, The Impact of Hurricane Ivan in the Cayman Islands, www.gov.ky, The Economist Intelligence Unit, September 2004, www.eiu.com.

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Guam

Working paper prepared by the Secretariat

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I. Background information

Geography and population

1. Guam[1] is the southernmost and largest of the Mariana Islands in the Pacific, situated about 1,350 miles south of Tokyo and 3,700 miles west-south-west of Hawaii. It consists of a single island of approximately 212 square miles. It comprises two distinct geological areas of about equal size. The northern part of the island is a high coralline limestone plateau and the southern region is mountainous. Apra Harbour, which is located on the central western side of the island, is one of the largest protected harbours in the Pacific and is considered to be the finest deep water port between Hawaii and the Philippines. The capital city of Guam is Hagåtña, previously known as Agana.

2. According to the United States Census Bureau's official census, the population of Guam in 2000 was 154,805, an increase of 21,653 (16 per cent) since the 1990 census.[2] In July 2004, the Central Intelligence Agency estimated the population to be 166,090, an increase of 7.23 per cent since 2000.[3] According to the census, the ethnic and racial composition of Guam's population is 37 per cent Chamorro, who are indigenous to the Territory. The population from the Freely Associated States (the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau) is 11,094, an increase of 128.18 per cent since 1990, with the largest group being Filipino (40,729), and from other Asian countries is 61,172, an increase of 30.91 per cent since 1990. The white population is 10,509, a 43.33 per cent decrease since 1990. English and Chamorro are the official languages. Among the important changes revealed in the 2000 census was a much slower population growth rate than in the previous decennial censuses. The 2000 population number of 154,805 was more than 15,000 less than the 170,000 estimated before the census. Compounded growth rate in the period 1990-2000 was 1.5 per cent, rather than the earlier projection of 2.3 per cent. The sharp drop in population growth in the period 1990-2000 is not the result of a large drop in the natural increase. Rather, it seems to derive from Guamanians migrating to Hawaii and other states for employment opportunities.[4]

3. Most of the population is Christian, mainly Roman Catholic (90 per cent). Other major religious denominations are Baptist, Seventh-day Adventist, Latter-day Saints and Episcopalian. Most other religions have adherents in Guam, including Jehovah's Witnesses, Jews, Buddhists and Muslims.[5]

II. Constitutional, legal and political issues

A. General

4. Guam was administered by the United States Department of the Navy until 1950, when the United States Congress enacted the Guam Organic Act, which established institutions of local government and made Guam an organized Territory. Since then, the Territory has been administered by the Department of the Interior. Guam is an unincorporated Territory since not all provisions of the United States Constitution apply to the island. As an unincorporated Territory, according to United

States law. Guam is a possession of the United States but not a part of the United States.

B. Constitutional structure

5. Guam has a locally elected Government, which comprises separate executive, legislative and judicial branches. Universal suffrage with respect to local elections applies to Guamanians 18 years and older. Guamanians are citizens of the United States, but they are not eligible to vote in United States presidential elections while resident in the Territory. The people of Guam elect a Governor, who serves a four-year term. Guam elected its first Governor in 1970. The Governor is responsible for the general supervision and control of the executive branch and submits an annual report to the United States Secretary of the Interior for transmission to Congress. The Governor may issue executive orders and regulations, recommend bills to the Legislature, make his views known to that body and veto legislation.

6. The people also elect 15 senators, who serve two-year terms in a unicameral Legislature. The Legislature may override the Governor's veto. Under the Organic Act of 1950, the United States Congress reserves the authority to annul any law enacted by the Guam Legislature.

7. In 1972, a new law gave Guam one non-voting delegate to the United States House of Representatives. The delegate, who serves a two-year term, may vote in committee but not on the floor of the House.

C. Legal system

8. The judicial system in Guam comprises both local and federal components. The local judicial system is made up of a Superior Court and a Supreme Court led by judges appointed by the Governor and confirmed by the Legislature. Local judges are subject to confirmation by the voters every six years. At the federal level, a District Court judge, appointed by the President of the United States, is the head of the United States District Court for Guam. In 1998, Congress adopted an amendment to the Organic Act of Guam allowing the Guam Legislature to elect its own Attorney General in 2002. Douglas Moylan was elected Attorney General in November 2002 and took office on 6 January 2003 for a four-year term. The Attorney General is the Chief Legal Officer of the Government of Guam. The Office of the Attorney General provides legal services to the Government of Guam and is empowered with prosecutorial authority.

9. In October 2004, President Bush signed into law House Resolution 2400, the Guam judicial bill, amending the Organic Act of Guam and establishing the judiciary as an independent branch of the Government. The resolution also confirmed the appellate jurisdiction and administrative authority of the Supreme Court of Guam over all inferior courts in the Territory, thereby effectively establishing a unified local judiciary. Guam's representative to the United States Congress, Congresswoman Bordallo, stated that the new law was "an important step forward for self-governance in Guam."[4]

D. Political parties and elections

10. Guam has two main political parties, the Republican Party and the Democratic Party, which are local chapters of the two main United States political parties. In November 2002, Guam held general elections. The Republican candidate, Felix Camacho, defeated former Congressman Robert Underwood by 4,500 votes and was elected Governor. On 2 November 2004, the Democratic candidate, Madeleine Bordallo, was re-elected as Guam's representative to the United States Congress.[7] In the vote for the 28th Guam Legislature, the Democrats lost their majority of nine seats and now hold six seats, while the Republicans won a majority of nine seats.

11. In addition, Guamanians also voted overwhelmingly against the proposal to legalize casino gambling in large Guam hotels. The proposal, known as Proposal A, sponsored by Citizens for Economic Diversity, was defeated, with 61 per cent of votes against and 38 per cent in favour.[8] Following the election, Citizens for Economic Diversity filed a lawsuit against the Guam Election Commission, alleging that the vote on Proposal A was tainted, as the Commission had failed to properly conduct the election. It argued that the Commission did not send out the complete 80-page text of the proposal before the election, which is required by law. In October 2004, however, Governor Camacho signed into law a bill that in effect declared the vote on Proposal A valid. The bill states that any defect in the casino ballot pamphlet shall not cause the election to be delayed or invalidated and that copies of Proposal A are available at public libraries and on the World Wide Web for voters to read.[9]

E. Political issues

12. Guam has long sought to change its political status relative to the United States. In a 1976 referendum Guamanians decided to maintain close ties with the United States, but also to begin negotiations to improve the Territory's status. In 1979, the people of Guam rejected a draft constitution by a margin of five to one, mainly on the grounds that the question of political status had to be resolved before a meaningful constitution could be drafted.[10] In a 1982 run-off referendum, 73 per cent of voters opted to pursue commonwealth status with the United States. According to the Commission on Self-Determination, established in 1984 to draft a commonwealth agreement, that status was intended to be an interim one, which would provide an opportunity for Guam to structure a better relationship with the United States.

13. In May 1986, the Commission on Self-Determination completed a draft Commonwealth Act, which, after a public education campaign, was submitted to an article-by-article vote on 8 August 1987 (see A/AC.109/1192, paras. 19-37). Voters approved the central proposal, but rejected articles empowering the Government of Guam to restrict immigration and granting the indigenous Chamorro people the right to determine the future political status of the Territory. In a further referendum in November 1987, both of those outstanding provisions were approved after they had been amended and rewritten. A summary of the main points in the draft Commonwealth Act is contained in the 2001 working paper (A/AC.109/2001/4).

14. Negotiations between the Guam Commission on Self-Determination and the United States Government on the draft Commonwealth Act began again in 1989 and

continued through 1997 without resolution (see A/AC.109/2000/6, paras. 19-22, A/AC.109/1192, paras. 19-37, and A/AC.109/2018, paras. 74-83). According to a statement made by the Governor, Carl T. C. Gutierrez, to the House Resources Committee of the 105th Congress in October 1997, the position of the United States executive branch with regard to the draft Act has essentially been that it was unconstitutional insofar as it did not recognize the plenary authority of Congress over Guam.

15. In 1997, Guam Public Law 23-147 established a Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination. That Commission, in concert with a process of registration of eligible voters organized by the Guam Election Commission, was to oversee the conduct of a vote on the Chamorro people's status preferences of independence, integration or free association, in accordance with international standards.

16. In 2000, the Guam Legislature provided the Guam Election Commission with the power to set the date of the decolonization plebiscite. The plebiscite, which was scheduled to take place on 2 November 2004, was postponed, primarily because eligible voters had not been identified and registered. The plebiscite would have asked the Territory's indigenous people, defined by law as persons or descendants of persons who were in Guam at the time of the United States ratification of the Treaty of Peace with Spain in 1898 and/or persons or descendants of persons who received United States citizenship pursuant to the Organic Act of 1950, to choose between statehood, independence or free association with the United States. The plebiscite would be non-binding but would set the course of any future status negotiations with the administering Power.

III. Budget

17. The budget of Guam comprises revenues received by the Government of Guam and federal contributions generally allocated to particular sectors through the Department of the Interior on an ad hoc basis. The Governor has the power to veto a budget bill, following which the bill is referred to the Legislature, which can either override the Governor's veto by a special majority or reconsider the bill. In 2004, the Government of Guam narrowly avoided a Government shutdown when the Legislature and the Governor experienced a serious impasse on the budget for the fiscal year 2005.

18. In late August 2004, the Legislature approved a budget for the fiscal year 2005, which included expenditure of $576.6 million, approximately $447.4 million of which was to come out of the General Fund, the depository of all taxation and federal funds. In early September 2004, the Governor vetoed the budget bill on the grounds that the revenue projections were too high. Following that, the bill returned to the Legislature, which, unable to override the Governor's veto, passed a split budget with the most critical agencies being dealt with in a primary spending bill (Bill 363) and the Legislature, Governor's Office and several other agencies and programmes being dealt with in a secondary spending bill (Bill 364). The Governor vetoed both bills and called on the Legislature to consider a three-month extension of the 2004 budget. The Legislature refused the proposal for an extension, overrode the Governor's veto on the primary spending bill and passed a new secondary spending bill (Bill 376), which was essentially the same as the earlier secondary

spending bill but with the exclusion of some of the more controversial appropriations. Bill 376 was signed into law by the Governor on 1 October 2004, putting the Government's final part of the budget for 2005 in place about 10 hours into the new fiscal year. According to the Governor's spokeswoman, there was little point in the Governor rejecting Bill 376 because when the Legislature had overridden his veto and voted the primary budget bill into law, it had effectively approved the inflated revenue estimate. The spokeswoman indicated that the Governor had, in the end, signed Bill 376 to prevent the agencies from shutting down. In a public statement, the Governor urged lawmakers to work with the Administration during the fiscal year to adjust the budget based on the actual revenues collected.[11]

19. The primary budget bill (Bill 363) allows for $544.1 million in expenditure on public schools, the police department and critical Government operations. The secondary budget bill (Bill 376) provides $31 million in funding for the Governor's Office, the Legislature, the Public Auditor, mayors and other government operations. The bill also increases the amount of money the Governor can transfer between Government agencies from 10 per cent to 15 per cent. The Governor's main objection to the budget was the Legislature revenue estimate of $447 million, which he considered to be inflated by $37 million.

20. The United States Department of the Interior Office of Insular Affairs was allocated $79 million in funding for the fiscal year 2005, $27.7 million of which was for capital investment in the United States Territories and $8.5 million in technical assistance funding for the insular areas.[12] A request by the Governor of Guam to the President of the United States to grant federal debt relief to Guam on the order of $200 million was rejected in January 2005. The request was made under a federal law passed in December 2003 allowing the President the option of granting debt relief to offset the cost of providing Government services to regional immigrants. In his budget proposal for the fiscal year 2006, the President announced that Guam will receive $14.2 million under an amendment in the Compact of Free Association, which provides $30 million to address the social impact of migrants from the Freely Associated States on United States territories and states.[13]

21. In February 2005, the Governor's budget fears were realized when it was confirmed that the Government of Guam was receiving much less revenue than what the Legislature had budgeted for. It was expected that the Government would experience a $67 million revenue shortfall by the end of the fiscal year. As a result, most agencies have been given only 90 per cent of their promised budgets. The Governor has indicated that recent economic prosperity has not translated into more money for Government services because of tax breaks now offered by the Government and the existence of several special funds for which revenue is diverted away from the General Fund.[14]

22. According to the Public Auditor, the Government of Guam already faced a significant deficit in early January 2005, on the order of $300 million. It was noted that the $300 million deficit did not take into account millions of dollars of unpaid tax refunds and pending earned income tax credits, which has been an outstanding issue in Guam. The solution suggested by the Governor was to borrow about $400 million on the bond market to offset the deficit. However, the Public Auditor advised against that course of action, warning of a further increase in the debt

burden, and suggested instead that budget cuts be made through the removal of non-essential items from the budget.[15]

23. In February 2005 the President of the United States presented to Congress his budget proposal for the 2006 fiscal year. His proposal reflected the three main priorities of the Administration: continuing the war on terror, strengthening homeland defence, and improving the economy. The federal mandatory spending proposed for Guam in the 2006 fiscal year budget is $131 million. As noted above, in 2004/05, the United States Department of the Interior, Office of Insular Affairs received $79 million in funding. The 2006 budget proposal includes an increase of $1 million to strengthen core water and waste activities in the United States Territories and those Territories in a relationship of free association with the United States. As was also noted above, in the 2006 fiscal year, Guam will receive an additional $14.2 million to address the social impact on Guam of migrants from the Freely Associated States.[16]

IV. Economy

A. General

24. The Guam economy is dominated by tourism and military spending. The construction sector is also an important contributor to the economy, while the farming and fishing sectors are relatively well developed. Vegetables, citrus and tropical fruits, coconuts and sugar cane are grown and livestock, especially poultry, is raised. Manufacturing sectors include textiles, cement and plastics.[17]

25. Guam is a duty-free port that facilitates the movement of raw materials for manufacturing. It also participates in two major trade programmes designed to promote export-oriented manufacturing: the Harmonized Tariff Schedule of the United States and the Generalized System of Preferences. Nonetheless, the Territory consistently records a trade deficit. The main recipient of Guam exports is Japan. Major export commodities are fish and crustaceans, mineral fuels, oils and waxes, tobacco and manufactured tobacco substitutes and automobiles.

26. According to the Governor, the economic outlook for Guam improved significantly over the reporting period, with signs that the Territory is finally emerging from a long recession. In his State of the Island Address, the Governor announced that the economy of Guam had finally stabilized and had experienced growth for the first time in 10 years. He indicated that over the 2003-2004 two-year period almost 1,400 jobs had been created and the unemployment rate had dropped by almost one third.[18] However, the Governor's assertion that the gross domestic product (GDP) in 2004, estimated at more than $3.1 billion, was 20 per cent higher than in 2003 was questioned, as the official GDP had not been calculated for many years, primarily due to the absence of a chief economist in the Territory since 1999.[19]

27. During the reporting period, economic indicators showed growth in the Territory's two main industries, tourism and the military. During 2002 and 2003, the tourism industry experienced major setbacks following several natural disasters, the follow-on effects of the terrorist attacks in the United States in 2001, travel fears over the war in Iraq and the advent of severe acute respiratory syndrome. However,

in 2004 Guam recorded more than 1.1 million visitor arrivals, up almost 30 per cent from the previous year. Military spending also rose, with the Government embarking upon a project that will see $2.5 billion in construction projects and infrastructure improvements at the Naval Station and Andersen Air Force Base over the next five years (see also para. 50 below).[20] A regional economist has noted that, with its ageing tourist infrastructure and extensive damage caused by a series of destructive typhoons in the last few years, the American Territory's impending economic recovery may once again attract foreign capital and skills to launch the next stage of business and economic recovery.[21]

28. The Government's policy of privatization and outsourcing in conjunction with departmental reorganization and public sector streamlining, reinforced by the increase of certain taxes, allowed the Government to stabilize Government spending to a certain degree. However, the Government still faces major economic challenges, including unpaid individual tax refunds, earned income tax credits, Government agencies in arrears on a rent and vendor payments, the retirement fund's unfunded liability, a large operating debt and a severe shortfall in health funding.[22]

29. According to the two latest economic reports on Guam by the Bank of Hawaii (August 2001 and October 2003), since 1999 the flow of public information on the economy has been severely limited, thus affecting the capacity of both the public and private sectors to make informed decisions. Among the causes of poor availability of economic data are the dismantling of the Guam Finance Commission and the lack of experienced staff in the Government of Guam.

B. Primary economic sectors

1. Agriculture and fisheries

30. The agriculture and fisheries sector has played a small role in the economy of Guam, accounting for less than 1 per cent of total private sector employment. The fishing industry, which began a major expansion in the late 1980s, continued to be important within the sector. In an effort to diversify the economy, Guam has begun to develop fish farms.[23] Horticultural development, aquaculture, small-scale aquarium fish trading and pearl farming were highlighted as potential business opportunities at a conference on business opportunities in Guam, held in 2004 by the United States Department of the Interior, Office of Insular Affairs.[24]

2. Manufacturing industry

31. One of the major industries on Guam, and the third most important economic sector (after tourism and the public sector), is construction. Construction as a generator of employment remains significantly above average for the United States, although it had been declining during the last decade. However, the strengthening of the Guam economy experienced during 2004 was evident in the construction sector. The demand for new construction permits doubled throughout the year, with new permits increasing from a value of $6 million per month in February to $12 million in December. A further increase of almost 400 per cent, to $21 million, was expected for 2005.[25] In 2004, the Duty Free Shoppers Galleria in Guam announced an upcoming $30 million renovation project. Other major construction projects, including road construction projects and the airport runway expansion are

contributing more than $102 million to the economy.[29] In addition, the United States military is expected to repair and strengthen the facilities it maintains on Guam (see also para. 50 below).[27]

32. The growth in construction was reflected in dramatic growth in the real estate industry, with the real estate market recording an annual sales volume of $245 million, representing a 68 per cent increase over 2003 sales.[28]

3. Tourism

33. As noted in paragraph 27 above, the tourism sector experienced significant recovery in 2004. Visitor arrivals in 2004 exceeded 1.15 million, which represented a 27 per cent increase from arrivals registered for 2003. Japanese arrivals were recorded at more than 900,000, representing a 37 per cent increase from 2003 arrivals and accounting for a significant part of growth in the tourism sector. Arrivals from the Republic of Korea remained steady, while visitor arrivals from Taiwan Province of China increased by 29 per cent. The Guam Visitors Bureau has set the goal of attracting 1.3 million visitors in 2005.[29]

34. As discussed in last year's working paper (A/AC.109/2004/5), Guam's tourist industry, as well as much of its economy, is dependent on the Japanese economy and Japanese tourists. In 2001, 80.2 per cent of tourists to Guam came from Japan, 8 per cent from the Republic of Korea and only 3.7 per cent from Hawaii and the mainland United States combined.[30] It has been noted by a regional economist that the rise in tourist traffic to Guam is fuelled by economic growth in Japan, as Guam is one of the tourist destinations in Japan's neighbourhood that benefits directly and immediately from Japan's economic recovery.[31]

35. In an effort to stimulate Chinese tourism to Guam, in 2004, the Government continued to seek "approved destination status" for Guam from the Chinese Government and simultaneously pursued the approval of the United States Government for a Guam-only visa programme for direct flights from China. As the prospects of establishing a visa waiver programme in the near future did not appear promising, in January 2005, the Guam Visitors Bureau redirected its efforts and put into action plans to set up Guam tourist information centres in China.[32]

36. In 2003, the Government continued to pursue diversification of the tourism industry through the Sports Tourism Taskforce. The Guam Visitors Bureau was successful in its promotion of sports tourism in Guam, announcing in January 2005 that a number of professional Japanese baseball and soccer clubs had arranged to hold training camps in Guam.[33]

C. Transport and communications

37. The Port Authority of Guam administers the commercial port facilities at Apra Harbour. It is a public corporation and an autonomous agency of the Government of Guam. Guam's port is a major trans-shipment centre of the western Pacific and is equipped to move containerized bulk and tuna cargo efficiently. In recent years, it has seen an average annual increase of 23 per cent in cargo. The Port Authority is expanding its container yard and was planning to spend $100 million in reconstruction activities up to the year 2005. The Governor is currently pursuing privatization for some of the functions of the port, such as its gantry cranes.

38. Refurbishment of the Guam International Airport runway system was begun in 2002. The first phase of the federally funded runway extension and renovation project was launched to extend the length of the two runways and to build a new taxiway to add safety to the airport. At present, the Guam International Airport is the most modern in the western Pacific.[34] In February 2005, major road construction projects, including phase II of the Tumon Redevelopment and North Marine Drive, were completed. The airport's runway expansion and other capital improvement projects are infusing more than $102 million into Guam's economy and opening up opportunities for more airlines to fly into Guam, according to the Governor.[35]

39. RCA Global Communications and IT&E handle cablegrams, facsimile and telex messages and overseas telephone calls in the Territory. At the beginning of 2003, a local company launched an online text service to enable mobile communications between users of the Global System for Mobile Communications in Guam and the Philippines at a cost of $0.05 per message.[36] The United States Postal Service handles mail delivery. Commercial mail delivery is also available through Federal Express and DHL. Guam has a daily newspaper, a newspaper published three times a week, several weekly and monthly commercial publications and military journals. According to the Federal Communications Commission, there are currently 11 FM and 2 AM radio channels, 3 local television channels and 1 cable television service provider.[37]

40. High-technology communications may represent an emerging growth sector for Guam. The Governor and Legislature have made information technologies a priority as part of a general effort to diversify the economy. Guam serves as major telecommunications hub for the Asia/Pacific rim.

41. At the end of 2004, Guam Telephone Authority, the last Government-run phone company, was privatized. The move to the private sector allows the new Guam Telephone Authority to offer diversified services at competitive rates, including cellular, long-distance, Internet and cable television services.[38]

D. Water system, sanitation and utilities

42. Approximately 74 per cent of the water supply is provided by the Guam Waterworks Authority. The remainder is produced by the Air Force and Navy installations on Guam. The Government's water sources are groundwater and surface water (Ugum River). The Navy water source is a surface reservoir (Fena Lake) in the southern part of the island. The state of the water and sewerage system is poor.

43. Leaks are frequent, posing significant health and environmental problems and inhibiting development.[39] In December 2002, the United States Government filed a complaint against Guam Waterworks Authority and the Government of Guam for repeated violations of the federal clean water and safe drinking water acts.[40]

44. In November 2002 the island elected its first Consolidated Commission on Utilities. The Commission oversees the operations of the Guam Waterworks Authority and the Guam Power Authority. The Commission was able to convince the United States Environmental Protection Agency to give the utilities authorities a final chance before taking them over and placing them in receivership.[41]

45. In 2004, the Consolidated Commission on Utilities began efforts towards privatizing the water and wastewater agency, voting to pursue the possibility of a concession agreement where the management and distribution of the island's water system could be turned over to a private contractor. Though the agency experienced a positive cash flow this year, water and sewage problems continue to frustrate residents. One major problem was resolved through a $49,000 project that corrected the sewage overflow at the Hagåtña main sewage station, which emitted a foul odour throughout the area. A few months later, the Guam Environmental Protection Agency issued a beach advisory for Gun Beach and Tanguisson Beach because of a sewage overflow that occurred along the Harmon cliff line. The chronic water problems in Santa Rita were resolved in 2004 after the Guam Waterworks Authority installed a new booster pump in the area, which stabilized water pressure, allowing water to reach highly elevated areas. Still, the agency experienced other infrastructural problems, such as damaged pumps and broken water lines, which caused water outages and pressure problems throughout the island. In December 2004, the Commission was ready to present proposed concession legislation to be taken to the Governor and the legislature, and the Commission members were expected to end the period for public comment and vote on the legislation at its meeting of 28 December 2004. The vote, however, was delayed.

46. In his State of the Island Address on 21 February 2005, Governor Camacho announced that water was the most critical issue the island faced today. He noted that the system was almost 60 years old and that the Guam Waterworks Authority needed to borrow $200 million just to meet federal Environmental Protection Agency requirements. To really improve the deteriorated system, it was estimated that an additional $400 million to $600 million was needed. The Governor called for the privatization of the Guam Waterworks Authority, either partly or in full.[42]

47. The Guam Power Authority, an autonomous agency of the Government of Guam, is responsible for providing electricity throughout the island.

V. Military issues

48. Guam was administered by the United States Navy until 1950, and remains the site of extensive United States naval and air force installations. Petroleum storage, munitions stowage, extensive communications facilities and other service industries that cater to the military establishment form the basis of the military infrastructure in Guam.

49. The United States military presence and spending on Guam have decreased considerably during the last decade. In March 2001, a survey conducted of 445 registered voters by the Guam Chamber of Commerce reported that 83 per cent of them supported an increase in military activity in Guam and agreed that it made "a positive contribution to Guam".[43] In 2002, the United States Navy transferred two Los Angeles class, fast-attack nuclear submarines to Guam, the *USS Corpus Christi* and the *USS San Francisco*. A third submarine, the *USS Houston*, arrived in December 2004.[44]

50. According to the Guam delegate to the United States Congress, for fiscal year 2005 Congress has appropriated more than $135 million for military construction projects for Andersen Air Force Base and the naval station. Funding for the projects includes $20.7 million for the Fena Reservoir chlorination system, $12.5 million to

upgrade a Navy wharf, $2.2 million for a Navy training facility, $19.6 million for a storage facility at Andersen Air Force Base and $26.9 million for a new high school for military dependants.[45]

51. The United States Department of Defense is reported to be seriously considering basing a second aircraft carrier in the Pacific, to enable a quicker response to a crisis in the region. Politicians in both Hawaii and Guam have been lobbying hard to become the chosen destination for the carrier owing to the significant impact it would have on the local economy. The positioning of the carrier in Guam would bring thousands of jobs and millions of dollars in military spending to Guam, as well as 10,000 sailors. The final decision is likely to be made towards the end of fiscal year 2005.[46]

VI. Land issues

52. As reported in previous working papers, the question of land use and ownership is a major and ongoing consideration on Guam. This question comprises two major issues: (a) the return of unused or underutilized lands held by the Department of Defense; and (b) the return of those lands to the original Chamorro landowners. The United States Government, principally its Department of Defense, currently holds title under United States law to over one third of the island. That land was condemned and acquired from private landowners by the Department of Defense during the years following the Second World War, when Guam was under the administration of the United States military. The land was held initially on an annual renewable lease between 1945 and 1950 and was subsequently acquired by the United States Government through eminent domain procedures after the extension of citizenship. In 1994, Congress passed the Guam Excess Lands Act (Public Law 103-339) to return 3,200 acres to the people of Guam. By early 2005, a total of 180 parcels of land benefiting 2,000 families had been returned, seven more than the previous year.[47]

VII. Social conditions

A. General

53. The Government of Guam received a grant of $199,500 from the United States Department of Justice for the Safe Neighbourhoods project to reduce gun-related crimes by increasing coordination among federal, state and local law enforcement agencies.[48]

B. Labour

General

54. Guam's unemployment rate was 11.4 per cent in 2002, down from 13.5 per cent in 2001.[49] However, with the economic outlook for Guam having improved significantly over the reporting period, the Governor, in his State of the Island Address, indicated that during the 2003-2004 two-year period almost 1,400 jobs had

been created and the unemployment rate had dropped by almost one third (see also para. 26 above).[50]

C. Education

55. Guam has an extensive public and private education system. The public education system includes the University of Guam, Guam Community College, four public high schools, seven middle schools and 27 elementary schools. The private system includes two business colleges, five high schools and several elementary schools, most of which are affiliated with Roman Catholic and Protestant religious denominations. A new bill, the Guam Charter Schools Act, allowed the establishment of private charter schools independent from the Department of Education.[51]

56. In October 2004, the Department of Education passed a $165.3 million budget for the fiscal year 2005, $25.5 million more than in the previous year. However, according to the Department's Superintendent, Juan Flores, the Department of Education would need to be cautious to ensure that revenues would actually meet the budget, because the amount was only an appropriation. The budgeted amount would allow the Department of Education to hire more teachers, purchase books and give pay raises to school aides and teachers, and thereby overcome some of the problems reported in the past, such as finding and retaining qualified teachers.[52]

57. Officials of the Department of Education are preparing a report, which should help parents evaluate Guam's schools and the education offered. Each of the island's 37 schools will be evaluated and given a grade. The report is required by Public Law 26-26 and by the federal education reform law "No Child Left Behind".[53]

58. In October 2004, the federal Government lifted a financial restriction associated with the Department of Education's so-called high-risk grantee status. In September 2003, the federal Government assigned the Department of Education the high-risk status because it had failed to have its financial reports audited during the past four years, thereby limiting it to receiving only 50 per cent of federal grant money.[54]

59. In his 2005 State of the Island Address, Governor Camacho noted the new "Adopt-a-school" programme, whereby businesses, Government employees and individual citizens came together and cleaned up schools in time for the new school year. Additionally, he pointed out that the Commission on Teaching Excellence has teamed up with the Department of Education and is undertaking education reform, which for the first time is being driven by parents, teachers and principals.

D. Public health

60. A health-care reform law, which entered into force in May 2004, requires that residents who rely on the Government's Medically Indigent Programme should go to one of two regional public health-care clinics instead of private health-care providers. There is concern in the medical community that the new structure penalizes patients and other health-care providers and might result in long waits at

61. The Government of Guam will receive a $5 million grant over a five-year period from the United States Department of Health and Human Services to implement a strategic prevention framework for substance abuse prevention.[50]

E. Immigration

62. A major issue in the federal Government's relations with Guam is migration from the Freely Associated States of the Marshall Islands, Micronesia (Federated States of) and Palau. The Compact of Free Association Act of 1986, which established the relationship between the United States and the Federated States of Micronesia, and the Marshall Islands, authorized unrestricted migration from those Pacific island nations to the Territories and possessions. The Act enabled citizens of the Freely Associated States to enter Guam and to engage lawfully in occupations as non-immigrant aliens.[51] Those immigrants and their American-born children have settled in Guam, Hawaii and the Northern Mariana Islands, which has strained the resources of recipient States and Territories.

63. In order to reimburse Guam and other Compact Territories for the cost of providing Government services for regional immigrants, the federal Government has issued Compact-impact funding. In December 2003, the Compact of Free Association Amendments Act of 2003 was passed, renewing the original Compact of 1986 for another 20 years. Additional Compact-impact reimbursement is authorized if impact costs rise above the mandatory appropriation of $30 million per year. An estimated $12 million to $14 million in annual funding is expected for Guam. At the same time, at the request of the Governor of Guam, the President is authorized to release, reduce or waive, in whole or in part, any amounts owed by the Government of Guam to the United States Government as an offset for past Compact-impact costs that were not reimbursed. Those costs are estimated by Guam to total $187 million.[52]

64. In his budget proposal for the fiscal year 2006, the President of the United States announced that Guam will receive $14.2 million in Compact funding.[53]

65. In addition, the immigration policies currently applied to Guam have resulted in a considerable increase in migration from countries, particularly the Philippines, to Guam. The 2000 census indicated that, while the Chamorro population stood at 65,243, the non-Chamorro population was 86,798.

F. Human rights and related issues

66. There have been no further developments since the issuance of the 2003 working paper (A/AC.109/2003/15).

VIII. Environment

67. Guam continues to experience environmental problems related to the United States occupation during the Second World War (see A/AC.109/2001/4, para. 83). In January 2002, the Navy agreed to pay $42,000 in fines and to spend $380,000 to improve its waste management, after the United States Environmental Protection

poorly in the year 2000.[47] In October 2004, the Washington-based Board of Radiation Effects Research Committee started to examine possible radiation exposure Guam residents might have suffered as a result of the United States nuclear tests in the Marshall Islands in the 1950s.[48]

68. In 2002, the United States Fish and Wildlife Service decided to designate 25,000 acres of Guam, about 19 per cent of the island, a critical habitat for the island's endangered bird and bat species. The land, which mostly belongs to the military, did not change ownership, but all federally funded land projects have to be reviewed to ensure that they do not affect species' native habitat. In October 2004, the United States Fish and Wildlife Service also decided to designate 6,489 acres of land a critical habitat for three bat species.[49]

69. The United States Senate passed a bill that provides $77 million to Guam to finance eradication programmes to wipe out the brown tree snake.[50] The brown tree snake poses a threat to Guam's biodiversity. It was presumably introduced into Guam via military cargo and has no natural predators in Guam.

IX. Relations with international organizations and entities

A. United Nations system

70. There have been no further developments since the issuance of the 2003 working paper (A/AC.109/2003/15).

B. Regional organizations and entities

71. Guam is a member of the secretariat of the Pacific Community, a 27-member organization dedicated to providing technical advice, assistance, training and research to promote the development of its members.

X. Future status of the Territory

A. Position of the territorial Government

72. The issue of the political status of the island has not been addressed since the new Governor, Felix Camacho, took office in January 2003. However, on 2 November 2004, Guam was scheduled to hold a plebiscite on self-determination to determine the future political status of the island. The plebiscite was postponed, primarily because eligible voters had not been identified and registered.[51]

B. Position of the administering Power

73. In a statement made at the 72nd plenary meeting of the General Assembly on 9 December 2003 (see A/58/PV.72), the representative of the United States said that the United States could not support the draft resolution (A/58/L.21) on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples because, by adopting a narrow definition of decolonization,

the draft resolution failed to take into account the complex reality of Non-Self-Governing Territories. For the United States, the very term "non-self-governing" seemed inappropriate for Territories able to establish their own Constitution, elect their own public officers, have representation in Washington, D.C., and choose their own economic path.

74. The United States was fully supportive when countries chose independence and was proud to welcome them as equal and sovereign partners. In the case of Territories that did not choose independence, however, the United States also supported the right of people of those Territories to a full measure of self-government, including the rights to integration and free association. The United States expressed the view that the world encompassed a variety of peoples, places and political circumstances, and that richness did not allow for just one path. It believed that a single standard of decolonization should not be applied to every Territory, and it called upon all Member States to respect the choices made by residents of Non-Self-Governing Territories.

75. In conclusion, the representative said that the United States looked forward to a significant dialogue with the Committee of 24 in 2004, and that it was the Government's hope that all parties would cooperate to achieve a reduction in the number of Non-Self-Governing Territories.

C. Consideration by the United Nations

76. On 10 December 2004, the General Assembly adopted resolution 59/134 A and B without a vote. Section VI of resolution 59/134 B is devoted specifically to Guam.

Notes:

[1] The information contained in the present working paper was derived from published sources, including Internet sites.

[2] *Pacific Daily News*, 9 February 2002.

[3] http://www.cia.gov.

[4] Bank of Hawaii, *Guam Economic Report*, October 2003 (see www.bankofhawaii.com).

[5] United States Department of the Interior, Office of Insular Affairs, *Fact Sheet*, 1998.

[6] *Pacific Daily News*, 13 October 2004 (see www.guampdn.com); press release, "President signs Guam Judicial Bill into law", 15 October 2004 (see www.house.gov/bordallo).

[7] www.kuam.com/decision2004/results.

[8] *Pacific Daily News*, 4 November 2004 (see www.guampdn.com).

[9] Ibid., 27 October 2004 (see www.guampdn.com).

[10] "Governing Guam Before and After the War", Guam Political Status Education Coordinating Committee, Agana, Guam, 1994.

[11] Ibid., "Bill 363 approved to dodge total shutdown", 2 October 2004, and "Agency shutdown looms", 30 September 2004 (see www.guampdn.com).

[12] Press release, "President Bush Sends Congress FY 2006 Budget Proposal", 7 February 2005 (see www.house.gov/bordallo).

[11] *Pacific Daily News*, "White House denies request for debt relief", 1 January 2005 (see www.guampdn.com); press release, "President Bush Sends Congress FY 2006 Budget Proposal", 7 February 2005 (see www.house.gov/bordallo).

[12] *Pacific Islands Report*, "Guam faces US$ 67 million revenue shortfall", 23 February 2005 (see www.guampdn.com).

[13] Ibid., "Guam shouldn't borrow to pay debt", 26 January 2005 (see www.guampdn.com).

[14] Press release, "President Bush Sends Congress FY 2006 Budget Proposal", 7 February 2005 (see www.house.gov/bordallo).

[15] "Guam" (see www.encarta.com).

[16] *Pacific Daily News*, State of the Island Address, 21 February 2005 (see www.guampdn.com).

[17] Ibid., "Economic data questioned", 22 February 2005 (see www.guampdn.com).

[18] Ibid., State of the Island Address, 21 February 2005 (see www.guampdn.com).

[19] United States Department of the Interior, Office of Insular Affairs, "An update on the economies of Guam and the Northern Mariana Islands", May 2004 (see www.doi.gov/oia).

[20] Ibid.

[21] www.admin.gov.gu/commerce.

[22] United States Department of the Interior, Office of Insular Affairs, "Secretary's Conference on Business Opportunities in the Islands", 23 September 2004 (see www.businessopportunitiesconference.com).

[23] *Pacific Daily News*, State of the Island Address, 21 February 2005 (see www.guampdn.com).

[24] Ibid.

[25] Bank of Hawaii, *Economic Report on Guam, October 2003* (see www.boh.com/econ).

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